

TROWBRIDGE
AMERICANS MISSING IN SOUTHEAST ASIA

HEARINGS
BEFORE THE
HOUSE SELECT COMMITTEE ON
MISSING PERSONS IN SOUTHEAST ASIA
NINETY-FOURTH CONGRESS
SECOND SESSION

PART 5

JUNE 17, 25, JULY 21, AND SEPTEMBER 21

Printed for the use of the
Select Committee on Missing Persons in Southeast Asia



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The purpose of this Select Committee is to conduct a full and complete investigation and study of (1) the problem of United States servicemen still identified as missing in action, as well as those known dead whose bodies have not been recovered, as a result of military operations in North Vietnam, South Vietnam, Laos, and Cambodia and the problem of United States civilians identified as missing or unaccounted for, as well as those known dead whose bodies have not been recovered in North Vietnam, South Vietnam, Laos, and Cambodia; (2) the need for additional international inspection teams to determine whether there are servicemen still held as prisoners of war or civilians held captive unwillingly detained in the aforementioned areas.

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HOUSE SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

THURSDAY, JUNE 17, 1976

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON MISSING
PERSONS IN SOUTHEAST ASIA,
Washington, D.C.

The select committee met, pursuant to notice, at 9:30 a.m., in room 2212, Rayburn House Office Building, Hon. G. V. Montgomery (chairman of the committee), presiding.

Present: Representatives Montgomery, Schroeder, Lloyd, McCloskey, and Gilman.

Also present: J. Angus MacDonald, staff director; Dr. Henry J. Kenny, Dr. Job L. Dittberner, John Burke, professional staff assistants; and Jeanne Shirkey, administrative assistant.

The CHAIRMAN. The Select Committee on Missing Persons will come to order.

For the benefit of our witnesses this morning and also the guests of the hearing, I would note that the attendance by the members probably will not be as good as it has been in the past mainly because the Congress worked until 8 o'clock last night and also the House of Representatives goes back in session this morning at 10 o'clock. We did think it very important that we receive these witnesses this morning to get the information of the JCRC into the record.

I would like to commend my colleague, Mr. Ben Gilman, who you can always depend on from Vietnam to New York to Washington to help out on the select committee.

I appreciate your being here this morning.

Let me briefly give the committee and our guests this morning a report on recent activities. Some of the members of the select committee went to the Defense Intelligence Agency (DIA) last Friday, June 11, to review case folders of individual servicemen. The session at DIA deserves a brief public report, I believe.

Congressman Jim Lloyd, Tom Harkin, and I went over there for a few hours in the morning. The DIA analysts were there and so were the personnel officers from the military services. We did not tell DIA what cases we wanted to review until we arrived there, so it was a surprise on-the-spot investigation.

They knew we were coming at the DIA but they didn't know what files or cases we were going to ask for. We asked for different files, some of them were for personal interest of the Members that went over. We were able to get the files very quickly. We learned of some

of the complicated matters of classification, but most importantly, in the cases we compared we found in every case all the classified documents were properly abstracted and their essentials were all included in the service folder. We were able to see everything in all of these files.

The staff had done the same thing the members did several weeks ago and they came up with the same conclusions, that nothing is being held back. We are pushing for everything possible to be declassified.

There are some documents in the folders that should not be declassified because of endangering other people's lives, and some of the information in the files doesn't really add to the missing-in-action individuals situation. The files are there, nothing was held back from the committee.

The select committee, as you know, is scheduled to report to Congress on September 11. It appears that we will meet that schedule. The end of this committee's tenure, whenever it ends, obviously does not mean the end of the MIA problem. While Congress never intended that this committee continue until the MIA problem was fully resolved, it is clearly our responsibility to see that when the committee's tenure is up, appropriate agencies will still continue to pursue an accounting.

It has become very clear that any accounting the American people gain for their missing is going to have to be negotiated by the State Department. The select committee was instrumental in urging State to explore executive-level talks with the Vietnamese. I am confident that those talks will take place, though at present the timetable is indefinite. Gaining an accounting will have a prominent place in these talks. The Secretary of State has stated publicly that an accounting will be a precondition of normalization of relations.

The select committee must also be certain that the Department of Defense has an adequate capability for monitoring and evaluating any accounting we receive.

Our testimony today is concerned with the agencies of the Department of Defense that will be required to evaluate the quantity and quality of any information we receive. In other words, when this committee does go out of service who will carry on the work.

So we have invited four persons from the Defense Department to talk about what happens after this committee goes out of existence—what will take place as far as the missing-in-action is concerned.

We have with us Dr. Roger Shields, Deputy Assistant Secretary of Defense for International Security Affairs, and Dr. Edward Collins, Director of the Defense Intelligence Research Center, who we met with last Friday.

The third witness is Col. C. J. Bobinski, the Army Director of Personal Affairs; the fourth is Mr. William M. Annetti, the Army Casualty Disposition Program Director.

Gentlemen, thank you for taking time from your busy schedules to be with us today.

Dr. Shields, you may proceed with your statement, and then, gentlemen, proceed in the order you consider best. We shall save our questions until after your statements.

STATEMENT OF DR. ROGER SHIELDS, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY AFFAIRS, ACCOMPANIED BY DR. EDWARD COLLINS, DIRECTOR OF THE DEFENSE INTELLIGENCE RESEARCH CENTER; COL. C. J. BOBINSKI, ARMY DIRECTOR OF PERSONAL AFFAIRS; AND WILLIAM M. ANNETTI, ARMY CASUALTY DISPOSITION PROGRAM DIRECTOR, ON BEHALF OF THE DEPARTMENT OF DEFENSE

Dr. SHIELDS. Mr. Chairman, members of the committee:

You have requested testimony from the Department of Defense on the mechanisms that will be retained to facilitate and monitor an accounting for our missing servicemen after this committee has completed its work. We are acutely aware that some persons fear we will lose interest and not actively pursue an accounting for those still missing in Southeast Asia after you submit your report. This is not true. I want to state emphatically that the Department of Defense has always been, and is now, completely resolved to obtain as complete an accounting as possible for our missing men.

We established the organizations and set the machinery in motion to successfully accomplish this humane task even before this committee was formed. This was not an ill-conceived and hastily constructed organization. Instead, it represented refinements of law and policy as developed through experience in three major conflicts.

Recognizing the difficulty inherent in accounting for the missing in the type of fighting we did in Southeast Asia, we negotiated the most comprehensive provisions for accounting ever included in any peace agreement. We are pleased that this committee gave us the opportunity to make the general public aware of the magnitude of this undertaking and our efforts to resolve it. We are convinced that this awareness will do much to dispel any fear that the Department of Defense will ever shirk its responsibility in caring for our own. Your efforts on our behalf have been appreciated and your successes have encouraged us to strive even harder to attain our goal.

I have never known a more dedicated group of men and women than those in the Department of Defense who are involved in accounting for their missing comrades. Their task is often frustrating, thankless, and misunderstood. Yet, I am fully convinced that no one could possibly be more concerned about the welfare of our missing men and their families than are those completely devoted professionals. One has only to know these people to realize they would never allow this issue to remain unresolved.

Today, I have with me representatives of several of the agencies most intimately involved in seeking a resolution to this problem. Most of them are well known to you because they already have devoted many years of painstaking labor toward the accomplishment of their mission. Col. Chester Bobinski and Mr. William Annetti will explain the responsibilities of the Army in recovering and accounting for the missing of all the services. Dr. Edward Collins of the Defense Intelligence Agency is here to briefly outline the agency's plans for retention and active maintenance of their PW/MIA files.

Before these gentlemen make their presentations, I would like to address briefly the current status of the Joint Casualty Resolution Center—JCRC. General Kingston has appeared before your committee to discuss the JCRC in detail and you have published a fact sheet concerning the center in part 3 of your hearings. Consequently, I will not delve into the details of their past operation and organization. By way of refamiliarization, I will say that JCRC is a joint military task force and was an outgrowth of U.S. Government efforts to identify, document, and maintain records of Americans missing in action or who might be prisoners of war as a result of the conflict in Southeast Asia. They moved their headquarters to Thailand shortly after activation. It should be noted that the JCRC is a special unit, designed for the unique situation that existed in Southeast Asia at the time of its organization in January 1973. The JCRC was not created to replace the standard machinery for locating and accounting for our missing and dead servicemen, but to supplement those activities because we were searching for our missing in an area that was, in fact, still at war.

Conditions in Southeast Asia precluded active searches for our missing by American teams after December 15, 1973. You will recall that was the day we had an American officer killed when his team attempted to recover the remains of an American known to have been killed at an earlier date. Since that time, the JCRC has remained prepared to reinitiate searches if the other side would agree. In the meantime, the JCRC has refined the files and records, has worked with the service casualty offices, has been involved in the various negotiations for approval to resume searches, and has supported others, such as your committee, in their initiatives.

I might add, Mr. Chairman, after the American officer was killed searching for the remains of the American known to have died in combat, although Americans were not able to continue the field searches the South Vietnamese allies spent a great deal of time continuing this effort for us and in some cases their efforts bore fruit for us.

Conditions in Thailand required a reduction in the American military forces in that country during the spring of this year. As a result, it was decided to relocate the bulk of JCRC and the associated Central Identification Laboratory—CIL—to Hawaii. We were able to leave two liaison officers from JCRC with the Embassy staff in Bangkok in order to be able to immediately respond to any opening by the Communists.

The CIL, an Army mortuary unit, will revert to U.S. Army control on July 1, 1976, but will remain responsive to the needs of JCRC. The JCRC is under the command of the Commander in Chief, Pacific, and is now located at the Naval Air Station, Barbers Point, Hawaii. Although operating at a reduced strength, the JCRC maintains the capability to refill its ranks and resume its full operation if future conditions will allow it to do so. In the meantime, the JCRC staff is continuing to evaluate and refine the records of the missing and the killed whose bodies were not recovered. These records will be maintained in a computer file and in a format that allows manual retrieval of desired information.

If conditions in Southeast Asia do not improve to the point that active searches can be renewed, the JCRC will probably be inactivated when their records projects are completed. I would hasten to add again that it can be reactivated on short notice if the situation changes. In the event JCRC stands down, their mission will be assumed by the U.S. Army, which has the traditional responsibility for this type of activity. I think that the following discussions of the Army's role in accounting for the missing and the organization they have for doing so will make you aware that this mission will continue. If it is acceptable to the committee, I would like to defer questions until after you have heard the other testimony for today.

Colonel Bobinski is now prepared to discuss plans for further accounting for those men still missing in Southeast Asia.

Colonel BOBINSKI. Thank you, Dr. Shields.

Mr. Chairman, members of the committee, I am Col. Chester Bobinski, Director of Personal Affairs, Department of the Army. As the doctor has already stated, the U.S. Army has the primary responsibility for the disposition of remains of all American servicemen killed in armed conflicts. Currently, I am the officer within the Army who has the responsibility for the day-to-day operation of this activity.

Recovery of American war dead is not a new requirement. Decent burial in registered graves has been written into Army regulations since 1861. Historically, experience has shown that recovery, identification, and burial of war casualties can be satisfactorily achieved only by a specialized service. The Quartermaster General of the Army, in his capacity as Chief of the American Graves Registration Service, developed major policy measures and technical standards to accomplish this critical and unique task. That agency evolved into the Armed Services Graves Registration Office—ASGRO—the office now responsible for the formulation of general policies and the exercise of technical direction to insure uniformity of procedures and consequent simplification of problems incident to the return of the dead or interment in permanent U.S. cemeteries overseas.

The ASGRO was established under authority of Joint Chiefs of Staff Publication No. 3 and Joint Regulations of the Army, Navy, and Air Force. During times of war, the ASGRO operates a central clearinghouse for all the services' graves registration records. They complete and verify the identification of all recovered remains through anthropological comparison of the remains with all the available records. The actual recovery, identification, and burial of the dead, the administration of cemeteries in the active theaters of operations, and the maintenance of applicable records is performed by a field element, the Joint Central Graves Registration Office—JCGRO. The JCGRO functions as an element of each major military command.

Upon cessation of hostilities, the ASGRO continues to coordinate the postwar program to recover remains and maintain the data base for those personnel still missing and the nonrecovered war dead. Additionally, they coordinate the major command mobilization planning to develop plans, principles, and doctrine for the accomplishment of graves registration activities in future military operations. The ASGRO is still involved in the recovery of remains from World War II and the Korean conflict and are coordinating with the joint casualty resolution center to recover remains from Southeast Asia.

The World War II graves registration program, conducted by the U.S. Army, was by far the largest ever undertaken by any nation. To illustrate the enormity of that task, I would like to give you some of the statistics involved. There were 360,848 American servicemen killed during the war. We recovered 282,075 remains, of which 171,416 were returned to the United States for burial and 110,659 were interred in 10 permanent cemeteries established in other countries. The vital world-wide identification activities associated with this program resulted in positive identification of approximately 97 percent of all recovered dead. Of the World War II dead, 78,773 remains were declared nonrecoverable but despite the declaration of nonrecoverability, efforts continue to account for those servicemen and, periodically, remains are recovered. During 1975, there were 12 remains of World War II casualties found in the European area. To conduct the World War II repatriation program at its peak required more than 18,000 persons and the attendant costs reached \$163,869,000.

Upon completion of the formal World War II repatriation program, the American Graves Registration Service was disestablished and its residual responsibilities were assumed by the Memorial Division, Office of the Quartermaster General of the Army. Field responsibility for recovery and identification of remains in the European area was assigned to the Army Mortuary System, Europe, and in the Pacific area to the Army Mortuary, Japan.

Between World War II and the outbreak of hostilities in Korea, the Far East Command Quartermaster had a two-part mission: The residual requirement to search for and recover the World War II dead; and to handle the small number of peacetime deaths in the Pacific area.

Soon after the fighting started in Korea, it became apparent that a central agency was required for all graves registration activities. This conflict was a new experience, one in which the United States was suffering large numbers of casualties in an undeclared war. Although existing regulations directed that a central graves registration office become operable only during wartime, the Quartermaster of the Far East Command designated his memorial division as the agency to administer and coordinate the graves registration program for all U.S. servicemen in the theater. Actual authority to support this action was granted by the Joint Chiefs of Staff some 6 months later.

The urgency and complexity of the situation, coupled with the severe shortage of trained personnel and supplies, prompted establishment of separate division cemeteries, a departure from World War II practices. This procedure used cemeteries near the battle lines, which expedited interment with less movement; however, this quickly changed after the Chinese intervened in the fighting and the American units began to fall back. The emphasis was then placed on evacuation to secure rear areas, where the remains were concentrated for evacuation to Japan and subsequent movement to the United States.

The decision to return the remains of American deceased to the United States during hostilities was a new practice for U.S. forces and was a drastic change from the established practice of leaving remains in battlefield cemeteries until cessation of hostilities. This necessitated an organization capable of carrying out the manifold operation of receiving, identifying, preparing, casketing, and ship-

ping remains. To handle these tasks, the zone headquarters and Central Identification Unit (CIU) were established as Camp Kokura, Japan. Subsequently, all remains disinterred from previously established cemeteries, and those recovered from the battlefields, were concentrated at Pusan or Masan and moved by sea or air to the Kokura facility.

The Korean war resulted in 36,923 fatalities. From its beginning until its disestablishment in 1954, the Kokura facility received and processed 28,746 remains. Of this number 27,890 remains were returned to Conus for burial in national and private cemeteries, 856 unknowns were buried in the National Cemetery of the Pacific. Another 8,177 remains were declared nonrecoverable. Upon completion of the program in 1955, the responsibility for residual recovery operations for Korea reverted to the U.S. Army Mortuary, Japan. Over the years, several remains have been recovered and identified. In 1975, two remains were found and so far in 1976 two more remains have been recovered.

With the introduction of U.S. military advisers in South Vietnam, it soon became evident that mortuary service support would be required. Early in 1961, this support was provided by personnel on temporary duty from the U.S. Air Force Mortuary, Philippines. In 1963, expansion of the troop commitment and the resultant increase in deaths necessitated activation of a U.S. Air Force mortuary at the Tan Son Nhut Air Base.

The continuing expansion of U.S. support from an advisory capacity to full commitment, resulted in the U.S. Army assuming responsibility for the mortuary mission and the establishment of the concurrent return program on July 1, 1966. This was a combination current death-graves registration service program.

Due to increased combat activity of U.S. forces in the I Corps area, the standby mortuary facility at Danang Air Base became operational as a fully staffed mortuary on June 20, 1967. Each of these mortuaries operated an identification laboratory as an adjunct to its regular mortuary mission. During the period 1961 through February 1973, there were 57,553 American fatalities in Vietnam. A total of 55,318 remains were recovered and processed through the mortuary system of which 55,290 were identified and returned to the United States for interment in accordance with instructions provided by the next of kin.

Upon cessation of American armed participation in South Vietnam, the Army-operated mortuary at Tan Son Nhut and the graves registration collecting point at Danang were deactivated. On March 24, 1973, a central identification laboratory was activated at Camp Samae San, Thailand, to carry out the residual tasks of recovering and identifying American war dead. Twenty-eight remains in various stages of identification processing were transferred from the U.S. Army Mortuary, Saigon, to the new Central Identification Laboratory, Thailand (CIL-THAI).

The CIL-THAI staff was comprised of 5 officers, 52 enlisted men, 15 Department of the Army civilians, and 12 local nationals for a total of 84 but the lack of access to Laos, Cambodia, and most areas of South Vietnam caused a staff reduction to 44 spaces by mid-1975. During its existence, CIL-THAI identified the remains of 75 American person-

nel. Sixty-five remains were identified as Southeast Asian Mongoloids, 84 of which were repatriated to South Vietnam prior to the collapse of its government.

The U.S. force reduction in Thailand resulted in the relocation of the CIL-THAI to Kapalama, Hawaii, on May 19, 1976, where it was redesignated the Central Identification Laboratory, Pacific (CIL-PAC).

The CIL-PAC mission is to conduct search and recovery operations in support of the joint casualty resolution center and other humanitarian missions as directed by competent authority. This includes accumulating information on American and allied personnel listed as missing and those declared dead but body not recovered, searching relevant crash and grave sites, recovering the remains and processing them to establish positive identification, and preparing remains for shipment to final resting places.

Sir, in view of the time we can skip through the mission statements if you so desire.

The CHAIRMAN. Thank you.

Dr. SHIELDS. We can move to the bottom of page 12 where we pass over the organizations and missions of the various agencies.

The CHAIRMAN. If you can summarize, it would be appreciated.

Colonel BOBINSKI. The USMACTHAI/JUSMAGTHAI joint table of distribution dated July 1, 1975, which is currently valid, authorizes a strength of 3 officers, 23 enlisted personnel, and 10 U.S. civilians. In order to return this Army unit to its normal parent control, action has been taken to place these spaces on the table of distribution and allowances of the Adjutant General Center (TAGCEN), Washington, D.C. The authorized strength remains constant, however; the current assigned strength of the CIL is 2 officers, 11 enlisted personnel, and 4 U.S. civilians. Requisitions have been submitted for one officer, five enlisted men, and one U.S. civilian. No attempt will be made to bring the enlisted and civilian personnel up to authorized strength until true requirements are determined as the current manpower level is considered adequate for anticipated mission requirements and can be augmented should the need arise. These vacancies also allow some flexibility to absorb the residual responsibilities of JCRC.

More specifically, sir, they will come under the direct supervision of my office.

The CHAIRMAN. You might summarize some more of this.

Colonel BOBINSKI. We can move on down to the bottom of page 13.

Mr. GILMAN. Mr. Chairman, with your permission, I think that we would all be interested in how that compares to the existing strength, prior to CIL-PAC's move to Hawaii.

Colonel BOBINSKI. They are at the same configuration in strength that they were in MACTHAI, sir.

Mr. GILMAN. I am not talking about configuration. I am asking how much of a reduction of personnel resulted from the move.

Colonel BOBINSKI. They have not been reduced, sir. The only reduction that took place was when it was in Thailand there was a reduction to 44 spaces. These 44 spaces are still authorized in the unit in Hawaii now.

The CHAIRMAN. This is off the subject, but I have been told there is no unknown soldier at Arlington Cemetery from the Vietnam war. Is that correct?

Colonel BOBINSKI. That is correct, sir.

The CHAIRMAN. Have we identified all of these Americans? What is the reason for that?

Colonel BOBINSKI. If I may defer to Mr. Annetti.

Mr. ANNETTI. Sir, at the present time we still have 28 remains in various stages of identification. Until the program has been closed and we have reached a point where we feel we can no longer pursue identification procedures on whatever remains we have left at the designated time, it is at that point that a decision would be made as to whether or not we would or would not have an unknown for Vietnam.

The reasons for this is there are certain standards that have been developed in the selection of unknowns for World War I, II, and Korea, and if we follow these standards today, we do not have an unknown or a candidate for an unknown. We may have to change some of the standards at the time that we reach the point of deciding whether we will or we won't go in that direction.

The CHAIRMAN. Thank you.

Colonel BOBINSKI. In addition, with all the sophisticated procedures that we possess now for identifying remains, if you come up with little in excess of 65 percent you can almost come up with a positive identification so you won't have the unknown.

Sir, if I may continue.

Essential information pertaining to casualties in Southeast Asia has been put into an automated data-processing system. This information includes date, location, type of incident, aircraft/vehicle model, nationality, and physical characteristics of the casualty, and certain biographical details. Their ADP systems can be sorted in any format necessary to assist in case research.

An additional ADP capability is available through the Air Force Logistical Command's "Non-Recovered Personnel SEA-DSD-1003" system. This system is the result of a triservice survey of the medical and dental records of all U.S. casualties in Southeast Asia. Not only are physical characteristics of each casualty in this system, but the multiple variations of dentition have been coded and stored. This allows sorting and extraction of names of casualties which may be correlated with the observable physical characteristics and dental anatomy of removed remains. Obviously, both JCRC's ADP system and "1003" systems have individual merits and are valuable tools to the CIL in their screening processes.

I would like for Mr. William Annetti, of my staff, to describe the current capabilities and activities of the CIL. Mr. Annetti.

Mr. ANNETTI. Thank you, Colonel Bobinski.

Mr. Chairman, the CIL maintains liaison with the casualty branches and personnel centers of all services to keep their administrative files up to date. Through the Armed Services Graves Registration Office, the CIL has the cooperation of various governmental and civilian agencies to include the Department of State, Federal Bureau of Investigation, the Smithsonian Institution, anthropology departments of prominent universities, blood-typing laboratories, and State police identification divisions.

The CIL has the capability to conduct search-and-recovery operations in any area to which they are granted access. All assigned military personnel are trained in graves registration and memorial affairs

activities and none have physical disabilities that would preclude vigorous physical activity. They are qualified in jungle and water survival and in infiltration techniques, to include repelling from hovering helicopters. This allows the recovery teams flexibility in reaching remote areas.

The civilian personnel are experienced in the scientific techniques of identification of flesh-covered and skeletal remains and there is a physical anthropologist on the staff to provide academic expertise and credibility. The U.S. Army, Japan, contract physical anthropologist is also available to the CIL to perform the cranio-facial photographic superimposition evaluation. Various forensic experts at the Armed Forces Institute of Pathology and the Fort Knox Medical Research Laboratory are available and in the past have been most helpful and cooperative in their specific fields of competence.

The CIL currently has approximately 28 remains. It is necessary to qualify the number due to the severe commingling of one group of remains. This group, which was assigned a count of 17 due to the nature of recovery, represents the recoverable and commingled remains of 4 USAF personnel and 81 ARVN airborne soldiers killed in the crash of a C-123 aircraft in 1965. Also among the remains are seven residual cases from the Tan Son Nhut mortuary and others that were recovered by subsequent operations. None of these are complete remains and all are skeletal, with most missing major anatomical portions to include dental structure. Some have a circumstantial name association, and concerted efforts are being made to develop identification. A bone specimen from one set of remains is presently at the Smithsonian Institution undergoing a series of tests to determine the extent of osteon remodeling in order to estimate age at death.

In addition to the 28 remains awaiting identification, the CIL is holding 31 remains identified as those of Southeast Asian mongoloids. It is anticipated that future diplomatic developments will allow these to be repatriated to Vietnam. Members of this committee have informed the North Vietnamese of these remains and offered to return them.

Since the relocation from Samae San, Thailand, to the Kapalapa Military Reservation, Hawaii, the CIL's activities have generally been limited to essential administrative duties. Their new building requires rehabilitation, particularly in the areas of security, so the remains and records are presently stored at the U.S. Army Mortuary, Hawaii, but will be moved to the new CIL location as soon as the facility is completed.

On June 5, 1976, the Government of Guam requested assistance in identifying and embalming the 45 victims of the Air Manila crash of the previous day. Although all victims were Philippine nationals, they were Kentron Corp. employees under U.S. Navy contract. On June 6, CIL-PAC dispatched two civilian ID/mortician staff members along with necessary supplies and equipment to the crash site. Situation reports indicate identification, embalming, and shipment of remains to the Republic of the Philippines were completed on June 14.

An increase in CIL operations in the Pacific area is anticipated due to the impending transfer of mortuary responsibility in Japan from the U.S. Army to the U.S. Air Force. Discoveries of World War II crash and grave sites are still being reported by friendly governments

and it is envisioned that CIL-PAC will respond to these notifications to conduct search and recovery missions.

In the event JCRC is inactivated, their functions will transfer to the ASGRO. The ASGRO will then task the CIL with field records management, search, recovery, and identification of remains responsibilities. In order to enable the CIL to discharge these responsibilities, it will be necessary for the CIL to receive and retain the JCRC residual ADP systems and the files system, as well as the supporting personnel. If the services desire ASGRO input to effect status changes from "missing" to "dead," this responsibility will be delegated to CIL. Recommendations to ASGRO to change category from "dead body not recovered" to "dead body nonrecoverable" will also be developed by CIL. If, prior to the disestablishment of JCRC, it is evident that the two-man liaison unit in Bangkok has been effective in any dealing with the Vietnamese, the ASGRO would recommend it be retained as an embassy element.

Otherwise, future negotiations should be handled by organic DAO personnel, who normally perform this type of duty.

There is, of course, a continuing requirement for intelligence support in the area of PW/MIA affairs. The bulk of this support has been furnished by the Defense Intelligence Agency. Dr. Edward M. Collins, Deputy Director for Intelligence (Research Center), DIA, is prepared to discuss future DIA efforts in the resolution of this issue.

Dr. COLLINS. Mr. Chairman and honorable committee members: It is an honor for me to testify before this select committee. Before directly addressing DIA's plans regarding the extent of its future involvement in the intelligence aspect of the PW/MIA issue, I would like to briefly summarize the DIA's past efforts in this matter.

DIA has been the principal U.S. Government agency concerned with comprehensive collection, review, analysis, maintenance, and dissemination of intelligence information relating to PW/MIA matters, and for this reason it has been the central point of contact for providing intelligence assistance on the subject.

In fulfillment of the DIA mission regarding casualty resolution of our personnel lost in Southeast Asia, DIA has routinely provided intelligence support to the Office of the Secretary of Defense, the Joint Chiefs of Staff, the various departments and staffs of the military services; the Commander in Chief, Pacific, the Joint Casualty Resolution Center, and the Department of State. Additionally, DIA responds to special requirements generated by White House, congressional, next of kin, and private organization inquiries.

DIA's ability to provide PW/MIA intelligence support to its various consumers is a result of its maintenance of a comprehensive data base on the subject. Our files are both automated and manual, and include information primarily on U.S. military and civilian personnel who were captured or missing in Southeast Asia. Certain information is also maintained on Americans who were killed in action, but whose remains were not recovered, and on selected third party nationals.

DIA's automated data base is an online system which permits our analysts to respond rapidly to queries. This has been a valuable resource to our analysts. DIA's manual data base consists primarily of intelligence dossiers on each case. However, it also includes such files as crash and grave sites, PW/MIA-related photographs and films,

confirmed and unconfirmed PW camp locations, and other miscellaneous topics associated with the PW/MIA subject. This all-inclusive data base provides DIA the capability to evaluate all intelligence reporting on the PW/MIA subject and to respond to virtually any question regarding Americans lost in Southeast Asia. We have maintained an adequate staff to continue to maintain the automated and manual files, to check and, if necessary, enter new or changed information into the files, to respond to queries, and to carry out the actions necessary to investigate the recurring reports we receive. Our present staff of six full-time personnel, supported by other resources as necessary, has proved adequate for the present workload.

Mr. GILMAN. Mr. Chairman, may I interrupt?

What does the six full-time staff consist of?

Dr. COLLINS. We have at the present time one officer and I believe four professional civilians and one clerical personnel.

Commander TROWBRIDGE. One military and six professional billets, one GS-13, two GS-12 and the rest are 11's.

Mr. GILMAN. What are the duties of these six professionals?

Commander TROWBRIDGE. Analyze information, provide support to the services in the way of evaluation.

Dr. COLLINS. DIA has committed itself to its current manpower level until October 1, 1976. We plan to reexamine the requirement at that time. Should the requirement continue, the number of DIA personnel devoted to PW/MIA matters will be maintained at the present level. However, as the requirements diminish, this would correspondingly reduce the manpower. Eventually, we foresee a reduction of personnel to three individuals, who will maintain a caretaker capability for as long as necessary. Should additional personnel be required, we will detail them to the effort as necessary.

DIA recognizes the critical need for continued intelligence support in accounting for Americans in Southeast Asia and for the return of their remains. Therefore, PW/MIA-related intelligence collection requirements continue to be levied at the highest priority, to obtain any shred of information relating to the matter of accounting for the missing.

However, the committee is aware that intelligence collection capability throughout Southeast Asia decreased drastically after the United States left the area. The volume of new PW/MIA intelligence information has been reduced significantly, and we do not have a large requirement to analyze new information. The need still exists to have an analytical capability with regard to the current data base, and we don't expect a lessening of this role for DIA in the foreseeable future. As long as Americans remain unaccounted for in Southeast Asia, DIA's consumers will require information from our data base and the benefits of our analytical capability. In particular, the service casualty elements must remain responsive to next-of-kin inquiries. DIA will continue to provide the intelligence support needed for that responsibility.

Unforeseen events in the diplomatic arena could, of course, affect DIA's ongoing role of providing support in PW/MIA-related matters. Progress toward accounting for our missing personnel and the return of their remains would undoubtedly result in increased analytical support requirements to be levied on DIA. DIA remains prepared to meet this or similar contingencies by detailing additional personnel

to meet any increased requirement. If necessary, DIA will ask for manpower augmentation to meet any situation—which we do not foresee at present—requiring a sustained commitment of a significantly larger number of personnel.

In summary, DIA plans to maintain its present level of manpower until October 1, to review its requirements prior to October 1, and to adjust its PW/MIA activity staffing level as requirements suggest. We do not foresee the full-time requirement dropping below three full-time personnel for the foreseeable future, and have made no plans to go below that level. We do see the possibility of an increased requirement, and we believe we can handle it by internal shifts of personnel. We will not hesitate to ask for additional permanent staff if necessary, but we do not consider that such a requirement is likely.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Dr. SHIELDS. We have been asked about the present status of the records of the missing, what happens to those records when there is a change in the individual's status, and what are the plans for retention of PW/MIA files.

Records pertaining to service personnel who are listed as PW/MIA are presently maintained by special sections in the casualty offices of the separate services. On file are the health and dental records, personnel records, casualty case files, and Missing-Persons Board reports, or equivalent files as required by the particular service. The financial data records are maintained by applicable service finance centers.

There have been certain conditions peculiar to a particular service and the records of that service's personnel have been handled accordingly. The Navy currently retains the records of all their missing at Headquarters, Department of the Navy, while the Marines maintain their records at Headquarters, Marine Corps; however, they envision the transfer of the records of those individuals, who have had status changes, to St. Louis for permanent retention. The Air Force has sent records of their personnel to St. Louis after all actions have been completed on a status change. Prior to January 1973, the Army transferred to St. Louis the records of men whose status was changed but all records of Army personnel whose status was changed after January 1973, are being maintained in Washington, D.C.

The CHAIRMAN. Let me interrupt you and see what questions the members might have. We do have a record vote.

Would the members like to come back? I know they have other commitments. Why don't we try to ask a few questions. We have about 8 or 9 minutes.

Mr. McCloskey.

Mr. McCLOSKEY. This DIA analytic capability, for what purpose do you use that capability now? We haven't had new remains furnished to us for some time.

Dr. COLLINS. We receive from time to time reports which require checking. From time to time information appears in the press which is relayed to us and we are required to verify the information or to, as it turns out, invalidate it. We continue to cross-compare reports or information received.

However, this is not a heavy workload at the present time because, as I have said, not very much new information is being received.

Mr. McCloskey. I have no further questions.

The CHAIRMAN. In other words, following up, you haven't received any new intelligence information pertaining to these missing in action in the last several months?

Dr. COLLINS. No, sir, we have not.

The CHAIRMAN. There could be evidence that some could be alive. Have you received any additional information?

Dr. COLLINS. No.

Dr. SHIELDS. We receive comments from individuals from time to time.

The CHAIRMAN. Mr. Lloyd.

Mr. LLOYD. Thank you very much, Mr. Chairman.

Dr. Shields, in a comparative way, taking World War I, World War II, Korea and the Vietnamese or Southeast Asia situation, is it possible for you to give an analysis very quickly of numerical value, say, that World War I was the least efficient, and that World War II was 10 times more efficient than World War I, et cetera. Could you do something like that?

Dr. SHIELDS. Let me comment very quickly. I don't think I want to say anything in terms of efficiency because Vietnam was so different.

Small units were engaged in contrast to large unit actions in Korea and World War II, but I will say very quickly—and Mr. Annetti can provide you with numbers on this—approximately 20 percent or a little more of those who died in Korea and World War II were never recovered.

We are now currently at this time talking about 3 percent for Vietnam, so if you were going to use terms of efficiency, certainly Vietnam is a much smaller problem for us in terms of gross numbers.

Mr. LLOYD. Do you feel that this is as a result of what you learned in Korea and World War II?

Dr. SHIELDS. There is no question but what it is partly a result of improved techniques, lessons learned in the past.

Mr. LLOYD. But, in other words, the standards that you set in World War II are not the standards you operate with today, is that true, the standards of identification?

Mr. ANNETTI. This is correct. We have many more sophisticated procedures than we had before.

Mr. LLOYD. So you have had a greater percentage of people who are identified but the requirements for that identification also have risen?

Mr. ANNETTI. That is correct.

The CHAIRMAN. Following up my own question, not counting the same 800 MIA's, we have about 1,800 Americans that have not been recovered from Southeast Asia?

Mr. ANNETTI. I believe it is 1,690, if I recall the last figure.

The CHAIRMAN. Could you make an estimate of how many you think of those remains could be recovered if we were permitted to move our teams into Southeast Asia?

Mr. ANNETTI. Less than 5 percent.

The CHAIRMAN. Less than 5 percent could be recovered if we went in and just completely had the whole terrain to ourselves?

Mr. ANNETTI. Yes.

The CHAIRMAN. What figure would that be?

Mr. ANNETTI. That would run somewhere around 200.

Dr. SHIELDS. We are dealing with about 2,500 whose remains have not been recovered if you include those killed in action and those who are currently listed as missing.

Mr. GILMAN. What do you base that estimate on?

Mr. ANNETTI. On our past experience in World War II, Korea and also World War I, and particularly in our recovery experience in the Pacific area for World War II with the same type terrain.

Mr. GILMAN. Have the statistics in all of those prior hostilities been a 5-percent recovery? Is that what you are telling us?

Mr. ANNETTI. It runs about that after the cessation of hostilities and in a concerted recovery program.

Mr. GILMAN. In World War II and in World War I, after the cessation of hostilities, there was only 5-percent recovery. But here we have a different situation. We haven't been able to go in and get all the information that we have had at the end of the other hostilities.

Mr. ANNETTI. Sir, the possibility of recovering remains that have not been recorded as having been recovered and interred by the enemy is very remote, particularly in the Pacific area where vegetation grows so fast and hides whatever is on the ground.

We have another particular type of thing going on in Vietnam in that we have a vegetation that seems to dissolve the remains much more quickly than in any other part of the world in which we have ever operated.

It is quite impossible to take an area, for example, one of the valleys and go in and comb it foot by foot. You would never get through the operation. So therefore you might walk right by a remains that is lying 2 feet away from you and never know it was there.

Mr. GILMAN. Mr. Chairman, if I might ask one more question.

Dr. Shields, how many people are assigned to declassification of documents in your department today?

Dr. SHIELDS. I would have to get that number for the record.

Mr. GILMAN. Can you supply that for the record?

Dr. SHIELDS. Yes.¹

Mr. McCloskey. Mr. Chairman, just one question.

Is the 5 percent you think could be recovered if our teams went in included in the number of gravesites in North Vietnam which the North Vietnamese themselves might have listed?

Mr. ANNETTI. No, sir. What I am talking about is nonrecorded.

Mr. McCloskey. What number of burial sites do you believe the North Vietnamese have recorded in Vietnam?

Dr. SHIELDS. We don't know, Congressman McCloskey. We have seen photographs of some gravesites, we have seen photographs of some Americans who were dead and presumably buried. We know of one gravesite where an unidentified American was buried. The North Vietnamese have acknowledged that.

To comment further on Mr. Annetti's figure of 5 percent, in this conflict we are dealing primarily with individuals who died in high-speed air crashes and that is a much more difficult situation than the case of infantrymen. We have also had some searches and had some experience already.

The CHAIRMAN. Thank you.

The select committee now stands adjourned.

[Whereupon, at 10:25 a.m., the select committee adjourned.]

¹ Retained in committee files.

HOUSE SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

FRIDAY, JUNE 25, 1978

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON MISSING
PERSONS IN SOUTHEAST ASIA,
Washington, D.C.

The select committee met, pursuant to notice, at 9:30 a.m., in room 2212, Rayburn House Office Building, Hon. G. V. Montgomery (chairman of the committee) presiding.

Present: Representatives Montgomery, Gonzalez, Moakley, Schroeder, Ottinger, Harkin, Lloyd, McCloskey, Gilman, and Guyer.

Also present: J. Angus MacDonald, staff director; Ms. Jeanne Shirkey, administrative assistant; Dr. Henry Kenny, Dr. Job Dittberner and Mr. John Burke, professional staff assistants; and Ms. Shad Dunlap, professional staff member.

The CHAIRMAN. The select committee will come to order.

Without objection, we would like to start the meeting and when Mr. McCloskey and Mr. Gonzalez arrive, we will stop briefly to take a group picture of the select committee with our staff.

I might say to the select committee, we have all the staff members here this morning. We are proud of our seven-staff personnel.

[Applause.]

The CHAIRMAN. We have heard from other witnesses opposed to having the military Secretaries resume individual case review and make status changes.

We all are acutely aware of the need to hear both sides of a question. That is one purpose for today's hearing. I believe our two witnesses hold views somewhat different from some we heard earlier.

Our first witness is Mrs. Linda Ferguson. Mrs. Ferguson is the wife of Air Force Capt. Douglas David Ferguson, who was lost over Laos in December 1969. She has been an MIA wife for more than 6 years. Recently she requested a hearing of her husband's case. Mrs. Ferguson will tell us of her experience as an MIA wife, and what led her to request a case review.

Our second witness is Mrs. Emma Hagerman, mother of four, and wife of Air Force Col. Robert Warren Hagerman, lost over North Vietnam in 1967. Colonel Hagerman was a career officer who spent 25 years in the service at the time of his loss. Mrs. Hagerman has been an MIA wife for almost 9 years.

So far we have heard witnesses from Florida, Massachusetts, California, Nebraska, Mississippi, North Carolina, and New York. Today's witnesses come from Washington State. So even though we have

not been able to hold hearings in different parts of the country, our selection of witnesses has given us a good geographical cross section of the country.

Thank you for being here this morning.

Without objection, Mrs. Ferguson, we would like for you to start and then Mrs. Hagerman, to read your statements and then, there being no objection from the witnesses, we would like to have questions.

If anyone would like to have pictures taken, no one has any objection to that, do they? I see some people have cameras in here. Without objection, people can take pictures.

Mr. GILMAN. Mr. Chairman, before you start the hearing, the league has asked me to remind the committee that on Friday July 23, there will be an annual meeting of the league and it will be held here in Washington, and they have requested that a panel attend, and I guess we have all received that invitation.

I want to remind the committee that it is Friday, July 23 from 2 to 5 p.m.

The CHAIRMAN. Thank you.

STATEMENT OF MRS. LINDA FERGUSON

Mrs. FERGUSON. Mr. Montgomery and members of the committee, thank you for this opportunity to speak to you about aspects of the MIA situation, and specifically about the recent status change of my husband, Air Force Capt. Douglas Ferguson.

I have a prepared statement and, after reading it, I will gladly answer any questions you might have. I shall summarize my husband's casualty, trace the rationale for my decision to request a status review, describe the review, and offer some opinions.

It is my belief that in my husband's case it would have been just and appropriate for the Air Force to have reviewed the case on its own initiative and made a presumptive finding of death before this year.

On December 30, 1969, my husband was the pilot systems operator in an F-14 operating in Northern Laos. After completing a forward air controller mission, the aircraft commander, Capt. Fielding Featherstone, was called in to strafe a target along Route 7. This mission was observed by the crew of a Reconnaissance F-4. His aircraft was observed to fly over the target on its third pass, at an altitude of approximately 500 feet. The wings of the aircraft rocked, and then it impacted the ground, 100 to 200 meters past the target, exploding in a large fireball. The eyewitnesses observed no chutes, established no voice contact, and picked up no electrical signals.

When the official notification came, I was provided this information; however, the statements regarding chances of survival were classified, and I did not read them until October of last year. Despite the pessimistic nature of the crash, the first notification ended with the statement that Captains Featherstone and Ferguson may have been captured. That statement, along with the MIA status, gave me reason to be hopeful of their survival.

I remained hopeful for 4 years. And I was encouraged by statements made by the Defense Department toward the end of the conflict that once the cease-fire was established, the missing men would be

accounted for, and that because of the sophisticated methods that would be employed, an accounting could be expected to be completed within 6 months.

After our prisoners-of-war returned in 1973 and efforts to obtain further information about the missing were thwarted, I began to face the grim possibility that the accounting was not going to be accomplished quickly and that I might never know what had happened. It was difficult to deal with that prospect; it is still difficult today.

Last August I learned that the eyewitness statements had been unclassified and were included in the file at Randolph Air Force Base. I requested to see those statements, and Colonel Gratch made them available in October.

Both of the pilots who observed the crash had stated that, in their opinion, neither my husband nor Captain Featherstone had survived. Neither canopy had been observed to depart the aircraft before it exploded.

I learned that Captain Featherstone's status had been changed. At this point I believed with certainty that the status change for my husband was in order. I resented having to be responsible for initiating this official decision. However, in light of the legal and political obstacles that surround the issue and keep the Services from acting, I appraised my own legal status and made the request.

No one influenced my decision, least of all anyone in the casualty department at Randolph. I have no plans to remarry. I did not request the review for financial reasons. I did it so that the Air Force would act. If those professionally prepared and personally dedicated to this cause believed that my husband was dead, I wanted the MIA status to be terminated. After more than 6 years, the decision was not based on an emotional whim.

The question of finances has been discussed at previous hearings, and recently it has been in the newspapers. This question has been asked: "Should anyone with a financial interest be able to initiate or impede a status review?"

I think a more important question is the one that goes beyond financial concerns: "Should a primary next of kin be placed in the position where she has to request the review, particularly when the primary next of kin is a wife whose daily life is more directly affected by a MIA status than that of a parent?"

My answer to that question is "No." Whether the financial support discourages others from requesting status reviews, I cannot say.

The review was held at my convenience in April. After delivering a summary of the known facts, a pilot with experience flying the F-4 in Laos explained what most likely caused the plane to go down as it was observed. I spent several hours examining the material that was in the file. The review lasted approximately 3 hours.

A recommendation was made, not on the basis of passage of time, but on the circumstances that were known in 1969, that the status be changed.

The presumptive finding of death became final in May. Casualty assistance was efficient and prompt. Casualty assistance for the past 6½ years has been characterized by efficiency and kindness, and I have appreciated and commended the Air Force casualty staff.

My husband's parents and his sister have been opposed to my decision. They claim that I have violated his rights and allowed the U.S. Government to, as they say, "write him off." Dealing with their criticism has been frustrating and painful, and I know that my decision has caused them anguish.

There are two basic disagreements here. My in-laws and many of those who resist status changes argue that the Defense Department will forget about the men for whom changes have been made, despite statements by the DOD to the contrary.

Second, there is a fear that presumptive findings made before your committee has had sufficient time to study the problem will somehow undermine your success. Status changes have been equated with death sentences, unfairly I think, because many of those who make that association would have to admit that the likelihood of these men being alive is very small.

Personally, I have not lost faith in the word and determination of the Defense Department and the services to account for their missing personnel and to attempt to repatriate the remains of the dead. And I am as hopeful as anyone that your committee will be successful in evaluating what can be done diplomatically by our Government and by foreign governments to insure that article 8(b) of the Paris Agreement is carried out.

I have achieved a legal finality with which I can live realistically. My conscience is clear. It would be a great relief to be notified some day that my husband's crash site had been investigated and that hard evidence had been found to support the presumptive finding.

In closing, I want to express my gratitude for your efforts on behalf of all the men who did not return from Southeast Asia and their families and the citizens who remain concerned about them.

The CHAIRMAN. Thank you, Mrs. Ferguson.

Without objection, we will hear Mrs. Hagerman's statement and then, if Mr. Gonzalez has not arrived, we will go ahead and take the picture and then have questions, because I do know that some members do have to leave.

Mrs. Hagerman does not have that long a statement.

I might say both of these ladies, one came by train and one came by plane, all the way from the State of Washington. The committee appreciates it.

STATEMENT OF MRS. EMMA HAGERMAN

Mrs. HAGERMAN. Mr. Chairman, honorable members of the committee.

Gentlemen, before I read my short statement, may I preface my remarks by saying that I have some very ambivalent feelings about this whole MIA situation. In one way or another, we families have become emotional cripples. I find that some families are so distraught and frustrated and angry that they no longer look for an accounting, but are waiting for a resurrection.

Where I fit in—I really cannot say, except that I am coping rather well and am trying to accept the unpleasant realities of my personal situation.

Mr. Chairman, my name is Emma M. Hagerman; I am the wife of Air Force Col. Robert Warren Hagerman, MIA as of November 6,

1967, at 7:35 a.m. I have a few short remarks to read to you and have a statement for the record.

I will be glad to answer any and all questions you have or want to put to me regarding this situation as I have known it from 1968, prior to the formation of the National League of Families, to the present date.

My husband was the pilot of an F-105 which was shot down by a SAM missile near Hanoi early in the morning almost 9 years ago. I have had no further word as to his fate from that day to this * * * from any official Air Force source.

I want it known for the record that he was a totally dedicated Air Force officer who, by now, would have devoted almost 34 years to the Service. He knew the hazards of the job and he also knew that there might be a day when he wouldn't be returning from a flight.

We have four sons—Bob, 31; Bill, 30; Dave, 27, and Dan, 20. Since Bob was shot down, we have added three daughters-in-law and two grandchildren.

Colonel Hagerman's MIA status has affected our family, not only emotionally, but it has also created a great many legal problems for me as the wife of a MIA.

Washington is a community property State which enacted a property management bill specifically for the wives of MIA's, in order to facilitate the handling of family business and property. However, one of our legislators saw fit to attach an amendment limiting those transactions to \$5,000.

I recently moved from the family home into a new home. I could not sell the old place and use those funds for the purchase of a new home because of this \$5,000 limitation. Consequently, I had to reach into my savings for the purchase of the new home. Because of Bob's status as an MIA, the new home is now community property, and it will be subject to probate proceedings if and when the status is determined.

We had a similar problem with selling an automobile. Unfortunately, one evening a truck hit that car, injuring my son and totaling the vehicle. At that point I was able to draw money from my USDDP account and purchase an automobile in my own name.

These are minor legal problems as compared to some. Yet they are some of the side effects of the MIA disease. I only wish time would permit me to mention two of the legal hassles which have developed in Washington State. They have all the elements which inspire bizarre and insane movie plots.

I have worked on the MIA problem since 1968, before the formation of the national league. I was part of a small network of wives headed by Sybil Stockdale. My job at that time was that of corresponding secretary for our yet-unnamed organization. I also wrote publicity releases, made many speeches, tried to gather our MIA wives together, and finally wrote the original draft of the first working by-laws of the National League of Families.

I am considered one of the founding and charter members, although I did not attend the original ad hoc meeting.

May I add here, the only reason for that was that time did not permit me to make the trip by train, and I do not fly.

In the early days before the league, we maintained excellent communications by the use of a telephone tree. We operated our telephone net work at our own expense * * * the wives of our men absorbed mailing costs, paper costs, telephone costs, et cetera. I don't mean to exclude the parents of our men when I make this explanation, but the original small group of about 14 was primarily a "wife" group.

At that time we received very little financial help from anywhere except our own purses. Our offices were housed in the cellars, dining rooms, spare rooms, and porches of the families of the MIA's and POWs.

I was originally coordinator for Washington, Oregon, Alaska, Montana, Hawaii, and Idaho. As the organization grew, I helped find others who would assume the positions to do the jobs of State coordinator. I then served as State coordinator for four years. Since then, I have been the adviser to the board of directors of the Washington MIA Families.

My particular interest, other than the obvious return of the POW's and the accounting for the MIAs, was to be sure that the Washington congressional delegation was cognizant of our situation at all times. I am still an active member of the national league, although I do not feel that the league leadership represents my feelings at this time, or the feelings of many of the primary next of kin. I have remained on the active list so that I would be kept apprised of what action was being taken by the board of directors.

I also want to add that I respect the feelings of all those people who differ with me on this matter, and I only desire that they respect my right to disagree, without considering the difference of opinion as a personal condemnation or disloyalty to our MIA's.

Charges have been hurled that the MIA wives are in this for the money and that we want the gravy train to continue to run. Perhaps this is the case in some instances, but I can assure you that group is in the minority.

I do feel, however, the MIA status of the men has created an entirely new group of overprivileged citizens. By that I mean that some of the fringe benefits have been stretched out of all proportion.

Specifically, I draw your attention to the COIN assist program. This program was originally given a code name to help our wives who lived outside the country to travel to their homes without having to wait endlessly for space available accommodations.

I know this to be a fact because I suggested to the then Air Force Chief of Staff, General Ryan, that perhaps a code could be devised which would make the travel less painful for our foreign brides. This was the original and primary reason for COIN assist.

Excuse me for being nervous. I am not used to talking this much.

According to the rules of the game, space available travel has always been designated to dependents and retired military. Now this service has been extended to provide transportation for PNOK to attend the annual meetings of the league of families. When the PNOK does not use the space, it can be designated to the secondary next of kin who are not dependents of the MIA, but in some cases they are retired personnel, in which case they would be entitled to travel anyway.

I shudder to think how the Air Force would explain a crash of a transport carrying 100 or so passengers who are civilians—and the

outcry of the taxpayer who foots the gas bill would be beyond comprehension.

The comparison of benefits coming to a young KIA family and the MIA family, I am sure, failed to mention that MIA space available travel is one of the "biggies" for the MIA family. I would also like to go on record as having never been reimbursed by the Air Force for any travel I have undertaken, nor have I ever used the COIN assist facilities.

With regard to the status changes, I feel no blanket legislation or recommendation can be made which would be fair to all concerned. I feel that each individual case must be judged on its own merit and I feel these men are entitled to be judged and reviewed by their peers.

I also would recommend that if a PNOK desires certain service officers to sit on those boards, they should have the right to select 50 percent of the board, if they so desire.

I personally would not want you gentlemen, Navy officers, or any other professional people to make the final determination in my husband's case. I want him judged by his peers * * * that is, Air Force fighter pilots who have seen combat.

Personally, I find it totally repugnant to me to ask for a status change. I do not feel that I could end my marriage in that manner any more than I could end this 33-year marriage with a divorce. I would never contest a change of status, but I would never ask for a status change if this thing dragged on another 100 years.

I would at this time like to make a comment on the conduct of the casualty officers of the Air Force. I was acquainted with them before my husband became MIA—because Bob was a casualty notification officer for western Pennsylvania and areas of West Virginia and Ohio. I know how seriously these men took their jobs and are taking their jobs today. I personally witnessed the concern they showed for the families of KIA's, MIA's, and POW's.

During 1965 and 1966, I saw my husband come home after making casualty calls and saw him agonizing about small children wanting to know why mommy was crying or about the tears of a father or mother. He shed his share of tears for men he never knew except as dead, prisoners, or missing. I only add this little bit of personal observation because I have heard some of the Air Force casualty people vilified beyond belief. The vitriolic criticism hurled at Col. Arch Gratch in particular amazes me.

I can assure you, Mr. Chairman and members of the committee, that the treatment given me and my family by the men now retired and those still serving at Randolph Air Force Base is above reproach. I cannot praise them enough.

In conclusion, Mr. Chairman, I want to say this: In a democracy there is a reciprocal relationship between the State and its individual citizens. These men more than fulfilled their part of this reciprocity when they fought a war for freedom and fought it with restrictions that were almost impossible to believe. It is time to end this immoral situation.

This Government does not owe me Bob's pay and allowances.

This Government does not owe me an accounting for the missing. But it does owe to the missing men themselves its best efforts to gain an honorable accounting. It is the duty of the Government to deter-

mine if even one missing man is still alive anywhere in the world in the hands of the enemy. If so, his release must be secured. In all other cases, our leaders must insist on return of remains or an explanation that will hold water.

I am sure the Defense Department has compiled sufficient evidence on many of the missing to know whether the Vietnamese and others can provide information. I am equally sure the Defense Department can evaluate that information, when and if it is provided, to determine whether it does hold water. At the same time, most of us fully appreciate that many of the missing will never be accounted for, due to the circumstances or location of their loss.

As an MIA wife, I often wonder what Teddy Roosevelt would have done. He thought nothing of threatening to level a port for the return of one or two American sailors, many, many years ago. Of course, reality precludes such actions in this day of nuclear warfare; however, it does make for interesting wool-gathering.

Mr. Chairman, thank you for your kindness in hearing me out. It has been a long journey for me from 1967 to 1976, and an equally long journey from Washington State to Washington, D.C. by rail, but it was well worth it.

May I leave with you a few excerpts from the book of Ecclesiastes, chapter 3:

For everything there is a season, and a time for every matter under heaven * * * a time to be born and a time to die * * * a time to keep silence and a time to speak * * * a time for war and a time for peace.

Thank you.

The CHAIRMAN. Thank you, Mrs. Hagerman, for that very helpful and sincere testimony.

Without objection we will take a moment before beginning questions to make a group picture of the select committee.

[Discussion off the record.]

The CHAIRMAN. The committee will come to order.

We will try to operate under the 5-minute rule.

Mr. Moakley is recognized.

Mr. MOAKLEY. First of all, I want to thank the two ladies for coming here this morning. As you know, this committee has heard all sides of the situation and it is a very difficult situation to really conclude.

The life of our committee is quickly coming to an end. For a small committee with a small staff, we feel we have done a good job, but unless we get the testimony from people like yourselves who have lived it, I do not think our job would be complete. So I would like to ask a few questions.

First of all, Mrs. Ferguson, were you a member of the National League of Families at one time?

Mrs. FERGUSON. Yes, I was.

Mr. MOAKLEY. Did you —

Mrs. FERGUSON. I joined the National League in 1970, and I was active, I would say, as a participant in the league for 2 years. I have continued to receive the National League newsletters until recently when I discontinued my membership.

Mr. LLOYD. Could I get you to use the microphone?

Mrs. FERGUSON. I would have to say I have not been, for the most part, an active member of the National League.

Mr. MOAKLEY. Based on your testimony, it almost seems apparent the way you recount it that your husband probably should have been listed KIA immediately rather than MIA, would you not say?

Mrs. FERGUSON. Yes, I would say that you are right.

Mr. MOAKLEY. But this testimony, actually this information was not available to you until the information was declassified, is that right?

Mrs. FERGUSON. I did not see the eyewitness statements. Those were the most important factors for me in deciding. I knew that no chutes had been seen, I knew the plane had been observed to crash and explode, but I did not see the statements regarding the chances of survival until October of last year.

Mr. MOAKLEY. Did it ever enter your mind then to hold your request for status review until this committee had completed its work and made its recommendation?

Mrs. FERGUSON. Yes, it did enter my mind, but because I feel that the accounting issue does not have to be linked to the status change issue, I felt that my decision would not inhibit the success of your committee.

Mr. MOAKLEY. I know from reading and listening to your statement that you have had some very personal problems with that, very closely affiliated with your family.

I have no more questions, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Moakley.

Mr. McCloskey?

Mr. MCCLOSKEY. Mrs. Ferguson, what is Route 7, which was the route in Laos?

Mrs. FERGUSON. Specifically I can't tell you. All that means to me is that it was one of the routes used to move supplies from North Vietnam through Laos.

Mr. MCCLOSKEY. We have a different factual situation with regard to the pilots shot down over the Ho Chi Minh Trail. Eight were captured by the North Vietnamese in Laos, turned over and ultimately released. We have yet to find any record of any pilot shot down other than over the Ho Chi Minh Trail, where they were then captured by Laotians and turned over to the North Vietnamese.

That is the reason I asked the question. We will look it up on the map and I will try to get back to you.

Thank you.

The CHAIRMAN. Mr. Ottinger?

Mr. OTTINGER. I have no questions, thank you.

The CHAIRMAN. Mr. Gilman?

Mr. GILMAN. Thank you, Mr. Chairman.

I want to thank both of the ladies for having taken the time and all of the trouble to come before our committee to express their views with regard to this very critical issue. I have listened with a great deal of interest to your statements.

I would like to address a question to both of you. You have both felt that the initiative should be undertaken by the administration rather than by the widow with regard to reclassification. Would you have felt any differently if there was some significant information in the file to indicate the possibility that your husband had been captured

or had been seen alive but had not received any further word concerning what occurred with regard to his captivity?

Mrs. FERGUSON. I would not have felt differently. I feel that it still should have been the decision of the casualty department, and I have faith in their qualitative decisions.

Mrs. HAGERMAN. Mr. Gilman, here is where I have to part company with Linda's thinking.

In the status change situation, I probably should have qualified my remarks a little more. I strongly believe where there were pictures of men on the ground or there was factual hard evidence that these men did exist and were alive at the time of the shoot down, I don't think those cases should be closed with any type of blanket legislation, or recommendation. But I do feel there are many instances, many hundreds of cases where men have piled into the jungles, three-layer jungles which will cover everything within a matter of 6 months, or men who went into the sea, 80, 100, 150 miles offshore.

I think reason would dictate that no man is going to swim 80 miles, dragging a parachute or stuck in the pod or an aircraft. But no, I would not stand by and abide by any type of status change if I had a picture of my husband on the ground and they just said they did not know what happened to him; I feel that very definitely should be pressed through diplomatic channels.

Mrs. FERGUSON. Mr. Gilman, I did not mean to imply that I feel all statuses should be changed. Regarding the initiation of the review, I feel that that should be the decision of the services and I don't think in every case a status change is warranted, but I thought you were asking about the initiation of the review.

Mr. GILMAN. Have you both had an opportunity to fully examine the files concerning your husband's cases?

Mrs. HAGERMAN. I have never looked into Colonel Hagerman's file because I felt it would be too emotionally traumatic for me. I have seen the eyewitness accounts, three accounts, wing men and wing commander, two or three of whom—I think two of the three are now deceased. I really felt that to look into the very personal aspects of his jacket was really an invasion of his privacy. I never looked in my husband's wallet and I don't really feel I need to look into his personnel file. Anything relating to the incident, yes, but anything other than that, I really don't care to see his personnel file.

Mr. GILMAN. Mrs. Ferguson?

Mrs. FERGUSON. I had the opportunity to see it at the review and I did look through everything.

Mr. GILMAN. Do you think the widow should be entitled to see any of the report information that the services have gathered concerning the last events surrounding either the crash or the captivity of the missing person?

Mrs. HAGERMAN. I believe if they wanted to see any documents pertinent to the incident they should be made available.

Mrs. FERGUSON. I agree.

Mr. GILMAN. And even if those events contained some gory details, how would you feel about that?

Mrs. HAGERMAN. In my particular case, I have to consider my parents-in-law. My husband is an only child and they have been urging

me to request a status change for some 2 years, and I have told them as I have told you, I can't do this.

I think, if I might use the blood-and-guts term, that part of it, I don't think, needs to be shown to my mother-in-law, who is 76 years old, who I really don't think emotionally could handle it. I think it would suffice to tell her that he was lost, he was shot, he died in the crash, or whatever the determination is.

But I do think, with regard to some of the experiences I have had with some of our elderly parents through the years, I don't really think the blood-and-guts part is necessary; a man is no deader if he is drawn and quartered than if he is shot.

Mr. GILMAN. What about for your own purposes?

Mrs. HAGERMAN. For my own purposes, I would like to know.

Mr. GILMAN. You think you would be able to handle it?

Mrs. HAGERMAN. I am certain I could.

Mr. GILMAN. Mrs. Ferguson?

Mrs. FERGUSON. I am certain the casualty staff would warn a wife or parent about the nature of certain material in the file and I think the next of kin would then be able to determine whether or not he wanted to see it.

Mr. GILMAN. You indicated that in your case there was some question about whether he could have been captured or not. Were there any reports made available to you that indicated some basis for captivity?

Mrs. FERGUSON. Never.

Mr. GILMAN. Mrs. Hagerman, are there any reports that you received that indicated any basis for your husband having survived the crash?

Mrs. HAGERMAN. No; the only information I received was that there was a possibility of survival, but it was very remote because there was no determination of whether the aircraft exploded in midair and the fact that they were 60 seconds from their target drop and everyone is rather busy taking care of himself; there was no really fine, well-defined eyewitness account.

The CHAIRMAN. Mr. Gilman, we will have to come back to you.

Mr. Lloyd?

Mr. LLOYD. I believe Mr. Gonzalez is ahead of me.

Mr. GONZALEZ. I am sorry, I came in late and I did not even know the camera would be here or not, but I had some previous commitments. I might have some questions later on. I will pass for now.

The CHAIRMAN. Very well.

Mr. LLOYD. Thank you, Mr. Chairman.

I thank both of you ladies for being here today. I know that the continuation of the saga of the problems that you have faced as far as our society is concerned really has to be very traumatic. I think one of the things that has impressed me the most is the terrible situation of the involvement, the rending or tearing of family situations, almost in a parents-versus-wives situation. That is one that has come through to me as a situation that I just find incomprehensible from the point of view that both people obviously are emotionally involved toward the same goal.

However, I am also intrigued, Mrs. Hagerman, by something that you said. I guess maybe my military background and all begs me to ask the question.

What difference is there between an Air Force fighter pilot who had been in combat and a Navy fighter pilot who had been in combat as to the peer group; if that would be your jurisdiction, I would find no fault in making that decision. I never was able to discern the great difference between fighter pilots. Since I was a Navy fighter pilot, I knew we were superior, but we really do not think there was that much to it.

Mrs. HAGERMAN. Mr. Lloyd, I probably there again failed in qualifying my statement. I was referring probably—not probably but most assuredly to the fighter types that came off aircraft carriers and did most of their flying over water. And I would have preferred Air Force people who worked off the ground, but that is just a personal service prejudice probably more than anything else.

I would not in any way doubt the veracity or the ability of the Navy pilots. But I would prefer that his Air Force peers would sit in on the determination.

Mr. LLOYD. I would not be able to determine, as you have pointed out, what really the difference would be. But if it brought peace of mind, I think that could easily be incorporated in our recommendations that eventually, when we close this committee down, that perhaps that could be incorporated as one of the recommendations.

Mrs. HAGERMAN. It is probably just 34 years as an Air Force wife, with a service loyalty and all of that, perhaps.

Mr. LLOYD. Nothing wrong with that. I think, as a matter of fact, whether it be Navy, Army or Air Force or Marines, I think the bulwark of much of the strength of the service is the acceptance of wives of very untenable situations. I certainly have been witness to much of that.

Mrs. Ferguson, what about your relationship with your own in-laws? Obviously it is strained. Would that relationship have been improved had the original findings been killed in action?

It is conjecture, I understand.

Mrs. FERGUSON. The relationship would not have been strained if I had not been the one responsible for initiating the change. I believe that a MIA status rather than a KIA status was warranted in 1969. The Services had to exercise caution. Later, when the Air Force evaluated the case and would have changed it, the DOD policy made the change impossible except by my request. That's what brought about the strained relationship.

Mr. LLOYD. OK.

Do you feel that in a percentage factor, and I guess both of you can respond to this, what percentage of wives would you say have a similar problem where there is a deep, emotional rift in the familial relationships?

Mrs. HAGERMAN. Mr. Lloyd, I would not be able to make a statement as to what percentage, but I would warrant a guess, that the number of families split over this, and the rift and the unpleasantness and unhappiness far outnumbers those who have a working-together relationship that I have with my in-laws.

Mr. LLOYD. Would you say that in the case of the services, if they had made, say, in an indoctrination situation, were they to advise the members of the armed services, male or female, that they ought to make more disclosure, more involvement on hazard potential that exists, do you think that ought to be done in the future, emphasized? Would that have made your situation easier, familywise?

Mrs. HAGERMAN. Now are you talking this orientation to the men or to the families?

Mr. LLOYD. Both.

Mrs. HAGERMAN. To both. I really do not know that it would have made much difference. It might have, but I feel that the nature of the war sort of precludes any conjecture because this was such an unusual thing, the men went to war thinking the war was going to be fought, it was going to be over, they were going to come home, and your committee is unique in dealing with a situation that has never been faced in any war before. So I really don't know.

I think something should come out of that, mainly that this never happen again, and hopefully with the wisdom between you, you will come up with something so that families will not have to face this again, our children and our grandchildren.

Mr. LLOYD. One other item and then I will be through.

Now, in both your cases, if the services had been more precise and less holding back on information—as I gather, you get disclosures much later on. If they had been more precise and even, if you will, I don't want to use the word "brutal" but the word is pragmatic, let's say, in the case of Mrs. Ferguson—and I do not know this is the case, I am using it as an example—if the services said:

Well, frankly, the way the whole thing comes out it appears to us that it looked as if it is a killed-in-action situation, and if something proves later on that is not the case, then later on we will make that disclosure.

Would that have been a more acceptable way of going?

Mrs. FERGUSON. I don't think in my husband's case there was opportunity for the Air Force to be more precise than they were. There was a difficulty there.

They could not, with certainty, tell me that he was dead. I feel they felt they owed him a precise evidential accounting, and I feel that the services must have felt that at the conclusion of the war there would have been a quick and complete effort made by both sides for this accounting.

As far as the classification of the eyewitness statements, I don't know what to say about that. That is the only unclear thing about this particular case.

Mr. LLOYD. Thank you very much, Mr. Chairman.

Mrs. HAGERMAN. Mr. Lloyd, may I just interrupt for a moment? Would I be out of order?

Mr. LLOYD. No, no; please go ahead, if I still have some time.

The CHAIRMAN. Go ahead.

Mrs. HAGERMAN. I wanted to add, if these cases, many of them that should have been KIA originally, had been made KIA on the day of the incident, this would have tended to draw the families together in a common grief bond which now no longer exists, because each one's grief has taken an entirely different direction.

Mr. LLOYD. That was the point I wanted to bring out. I appreciate it.
The CHAIRMAN. Thank you.
Mr. Guyer?

Mr. GUYER. Thank you, Mr. Chairman.

We are enormously grateful to you ladies for your taking the time and expressing what you feel in your hearts. The thing that is refreshing to me is the fact that you have both indicated that we differ in many ways, as here in Congress we differ too so often. It is nice to know other people also have varying opinions.

I also want to compliment the lady, as I understand you do not like to fly. You did come by train, which is a real effort, to get here.

I am enormously interested in the fact that the League of Families, even though they seem to differ in their views, that you do have time to express your feelings individually. Every instance I have had in connection with you people I find no two people or situations are the same.

I had an incident not long ago concerning a man who died in a foreign country. He was not killed, but died while doing church work. His wife wanted his body buried there because that is where his heart was, but his parents wanted the body brought back home for burial.

This points up by relevance some of the problems we have here. I appreciate and respect the right of a wife to make a choice. You made a choice when you got married, you have a right to make choices and decisions along other lines and on various serious matters.

I feel a little guilty as a member of Government in the sense that our Government maybe has not done some things it should have done, and if there are areas where, whether it is military or whether it is congressional, that we have not rendered adequate service, then our imperfections are all the more outstanding.

Incidentally, you referred, Mrs. Hagerman, to some legal problems. Would you want to talk just a minute or 2 about some of the weird problems you had along those lines?

Mrs. HAGERMAN. Well, these problems I specifically referred to were not personal problems.

Mr. GUYER. I see.

Mrs. HAGERMAN. In my job as State coordinator for many years, and prior to the league, I sort of became mother confessor to the area. Many strange things have happened. We have had an instance of a mother becoming an alcoholic, her husband left her, the youngster was picked up on a drug charge.

Many nights running I was called out of bed at 2 or 3 o'clock in the morning; she wanted me to call somebody in Washington to do something.

In other instances, I hate to be taken for a busybody, but I think when case reviews come up for men from the State of Washington, my name will probably appear on almost every jacket, because many of the mothers and fathers would call me to call the Air Force, to ask a question, because they weren't familiar with the military and felt terribly uneasy about asking questions.

The bizarre legal aspects that I was talking about involve two different families in Washington.

One case, the MIA was married, no dependents; the wife had gone to Africa or some other country in the Near or Far East, and was

doing some type of missionary work, and she had returned from her job to come home to celebrate the 75th birthday of the father-in-law and was killed on the highway, on the way to the father-in-law's birthday party.

Of course, then came the situation of who predeceased whom in the death situation. There is a rather large amount of money involved.

By the time the family of the wife understood what was involved here, long legal hassle has been going on now for about 4 years, and this old gentleman has been trying to settle out of court. He doesn't want to ask for a status change. It just goes back and forth like a Ping-Pong ball.

The other situation was a Navy wife who died of cancer, she was the second wife of this fellow. He had children in the East. She had a sister in Oregon and there was no progeny. Consequently, upon her death the children came from the East to pick up some of dad's things. They weren't allowed to remove anything from the house. She had set up a fund to pay the rent on the building for 20 years from the date of shutdown in case Bill came home, so that the house would be intact.

Her family could remove nothing from the building. And because the youngsters were from the East and the other side of the family was from Oregon and they didn't reside in the county where the will was filed, nothing could happen. The house just sits there.

It is ridiculous, some of the legal aspects of Washington State with regard to MIA's. It is a nightmare.

Mr. GUYER. You are both satisfied your husbands are not living; you agree on that, is that correct?

Mrs. FERGUSON. Yes.

Mrs. HAGERMAN. I am ambivalent at times. I have highs and lows. I think I am fairly convinced that he is dead.

Mr. GUYER. The reason I ask, I had a nephew shot down in Vietnam and he was killed. But his body was returned early in the war. The sorrow was intense, but my brother and his wife faced their sorrow as many other people have but they felt comforted because of the way the matter was handled.

Understanding officers who had been buddies came back. The chaplain came along to be with them. He is buried back where they live.

I am wondering how, I as a Congressman, could be of more help to ladies like yourselves. Would it be helpful if, for example, since we have access to files, if we were to bring what facts we are allowed to bring, and sit down with a family and then let them make a decision?

The right to know and the right to decide are rights I would fight for.

For example, if I was in the hospital and I had cancer or an incurable disease, I think it would be a disservice for someone not to tell me. I do not expect I should make a judgment on how you want to accept facts. If there are hideous circumstances and you would rather not know, you have the right to know, or you have the right not to know.

Do you think the committee could still render some services to help other wives? If so, how could we, at a maximum service, be of that kind of assistance?

Do you want to comment on that?

I don't want to take too much time, but what can we do? We did not start the war. The war is now a traumatic thing. What can we do as Representatives to help other people like yourselves in your anguish and sorrow?

Mrs. FERGUSON. I think if you can be certain yourselves that our Government has made every effort to negotiate with foreign governments for an accounting, if you can be certain of that yourselves and convince families of that, you would be doing a great service.

Mr. GUYER. I think that is a good statement. But I think the prospect of unfulfillment makes it appear nobody cares.

The worst thing that I have to carry around is when I see a slogan or something or hear remarks that we have not done enough. I want to know in what areas we can do enough because we will never settle all the problems, as you well know, but it seems as though we have mishandled some things, in which families are wondering whether people care enough about those who serve their country, whether the flag has been allowed to drag rather than be held high, whether we want to respect those men, honor those men or whether we have forgotten them, as you say, write them off.

I am concerned about that, because if there are some things we can do as a committee or as individuals, I intend personally to pursue this. Whether the committee is involved makes no difference to me; I am going to help the people back home in my State find out all I can for their sakes.

I hope when the judgment comes they will make the judgment, but with the assurance that nothing was held from them, that they have the courage to face whatever there is to face.

Mrs. HAGERMAN. I think what you have said is really the thing we are getting at anyway. We are locked into a situation which to me seems to have no answers except through present and standing laws and existing legislation.

As I said before, I hope this will never happen again. I personally would feel very much relieved if my Congressman were to call me and say, I have personally reviewed Bob's jacket and this is what I have found and this is how I feel, and I do think you would be doing them a tremendous service because there are districts where you can call a Congressman, and because there is no MIA in the district or something like that, they really do not have the time because this is not the only thing you do.

Mr. GUYER. You paid respects to the military personnel at Randolph Base.

Mrs. HAGERMAN. Yes, I did.

Mr. GUYER. Has there been developed a camaraderie, where you feel a common bond; do you have that feeling?

Mrs. HAGERMAN. Do you mean with the league or with the military?

Mr. GUYER. With the members of the league.

Mrs. HAGERMAN. Certainly, certainly.

I have disagreed very strongly at times, not to the point of argument, but, as I said before, I certainly will listen with respect to anyone who disagrees with my point of view.

I hope that they would let me state my viewpoint and, because we disagree, not consider me disloyal to the cause.

Mr. GUYER. Thank you.

The CHAIRMAN. Thank you.

Mr. McCloskey?

Mr. McCLOSKEY. I just want to respond to your last comment, Mrs. Hagerman.

There are really two categories of cases that we are looking at. One is the case where the plane was lost in rugged terrain or in the ocean, and there was no information whatsoever.

The other case is where somebody saw someone alive on the ground and there was a possibility of an individual being alive after the crash.

In each of these cases we are doing exactly what you suggest. We are going to the files, trying to correlate all of the information DOD has, make an individual judgment, and write a letter to the person involved as to what our considered judgment is.

The only case I have seen where there could be any slight hope that the individual might be alive is where people were shot down not over the Ho Chi Minh Trail but over part of Laos. We do have reports that there were Americans seen alive by indigenous forces. We have statements these forces were holding American pilots that were shot down. We also have testimony from a number of witnesses that the treatment of prisoners by the Ho Chi Minh forces was cruel and harsh. In addition, the weather and terrain was extremely rough. Many have therefore concluded that no one being held is now alive. It all comes down to a reasonable presumption that these prisoners are probably dead. That situation is one that we hope to resolve for good in further negotiations with the Laotians.

With respect to those shot down in North Vietnam, there is no question as to the number of leads the Vietnamese could give if we could adopt your suggestion. However, we are not satisfied that our Government has done everything possible in negotiations. We have considered the matters of personality, history and custom; as well as the State Department's approach. They don't want to make any concessions to these people in negotiations. Our efforts are never the less going forward. I hope by the time this committee resolves its work we can be satisfied our Government is taking that last step, which will require the support of the President.

The CHAIRMAN. Thank you.

Before yielding to Mr. Gonzalez, Mrs. Hagerman, you stated that you disagreed with some of the feelings of the National League and that they don't really represent all the feelings of the next of kin. Do you care to elaborate further on this?

I might say we have a quorum call on the House floor and probably we have about 7 minutes more if the members have no objection. If we want to come back, we can.

Mrs. HAGERMAN. You want to know why I feel they don't represent the majority?

The CHAIRMAN. Right.

Mrs. HAGERMAN. I don't feel that this is the majority thinking of the primary next of kin. At the moment I don't have access to the membership list of the National League but I feel certain that not all primary next of kin are members of the National League. If we work it on a percentage basis just from the State of Washington, we had less than 60 percent of the primary next of kin in Washington who were members of our Washington chapter of the families. The rest of the

groups wanted their privacy respected and didn't care to join any organization.

I did have people on my list—not on the membership list—but on a mailing list who asked me to respect their privacy and just send them whatever communications I was sending out to our State families.

I didn't bring it with me but I do have a certified copy of the last election of the National League of Families at which time about 992 ballots were sent out, and of those about 412 were primary next of kin. Since there is a section of the bylaws which says that anyone can be a member of the National League of Families through bloodlines, and that term to be used in the broadest interpretation of family which means in-laws, cousins, brothers, sisters, aunts, uncles, I really don't feel that the majority membership of the National League of Families is made up of primary next of kin.

The CHAIRMAN. That is a very good point. I asked that question so the committee would be aware that there are a number of next of kin to whom this is a private affair in effect and they are not asking the league or this committee or anyone else for assistance. It is their own private affair and they would like to handle it in their own way or not handle it, and a large number of them are trying to start new lives. Is that correct?

Mrs. HAGERMAN. I think that is correct in a great many instances.

Mr. GILMAN. Would the gentleman yield?

The CHAIRMAN. Yes.

Mr. GILMAN. Just to clarify the record, I see Colonel Hopper is here. Is it true that the majority of members are not next of kin?

Colonel HOPPER. We don't have any specific breakout on this.

I would like to correct something Mrs. Hagerman said, if I could, Mr. Chairman. The 900-some ballots she referred to again mailed out is not correct. Those were 900-some-odd ballots that were returned as a result of some 1,700 or 1,800 mailed out.

Mrs. HAGERMAN. That is right.

Colonel HOPPER. The 900 were those that were returned and there was one specific question the membership was voting on. Of those 900 that chose to vote on that one specific question, it was split—I forget exactly what it was, maybe 50-50 were primary next of kin, the other secondary.

The CHAIRMAN. Let's hear Mrs. Hagerman.

Mrs. HAGERMAN. I agree with Colonel Hopper. What I am maintaining is this: We have a number of men missing in action who each have a primary next of kin. We have had an instance in the league where one family had as many as 25 members of one family who were related to one MIA. I feel that a primary next of kin should have some right of determination in this situation for the simple reason that if my husband were not an only child and had 12 brothers and 37 cousins that probably never wrote to him in the course of his time in service, these people can now join the National League of Families and help determine what is then interpreted as the policy of the majority of these primary next of kin. That is the point I was trying to make, Mr. Chairman.

The CHAIRMAN. I thought since she is a key witness she should be given an opportunity to respond.

Mr. Gonzalez, we have about 2 more minutes.

Mr. GONZALEZ. Thank you, Mr. Chairman.

I wish to join my colleagues in thanking you both for taking the time to be here. I am sure each one of these occasions is an ordeal in itself. My question has to do with community property laws. In the case you referred to in your statement did you pay out of your own pocket for the legal services that you had to have? You couldn't do that by yourself. You would have to go to court if you wanted any kind of legal status change.

Are the legal expenses provided for or did you have to pay for them yourselves?

Mrs. HAGERMAN. Are you referring to a military change of status?

Mr. GONZALEZ. With respect to the disposition of community property.

Mrs. HAGERMAN. Yes, we have to pay that fee ourselves.

Mr. GONZALEZ. There is no legal service available to you as a legitimate next of kin or primary kin to a missing-in-action or killed-in-action?

Mrs. HAGERMAN. We have been offered the services of the Washington Young Lawyers Association, and I believe that this has been done probably all over the country through the efforts of the National League of Families. However, I have never availed myself to those services.

Mr. GONZALEZ. But there is no fund or a lawyer of your choice available in case you have to hire an attorney because of the situation that has arisen?

Mrs. HAGERMAN. No. That is my personal responsibility.

Mr. GONZALEZ. I have been asking this question because we have had cases where some of the individuals testified that they have had to hire a lawyer even for their presentations to the review boards.

It seems to me this is one item where some recognition on the part of our Government could very well find a place.

Mrs. HAGERMAN. Yes.

Mr. GONZALEZ. I think that your statement really is a very complete statement, and I appreciate very much your expression of sentiments. My feeling has been that by far and by large our Government has been sensitive and has been responsive, and I think every member of this select committee, whether it exists 1 year or can be prevailed upon to continue the remaining months of this year, will maintain the keen interest that each and every member shown in working on this committee.

Mr. GUYER. I understand both political parties are putting into their platform their stand on this concern. I heard just today that the Democratic Party is trying to formulate a position. I am sure the Republican Party will, not as a political gesture but to show we do care, irrespective of our political affiliations, about finishing our concern.

Mr. GONZALEZ. Oh, yes. I think this is an issue that is not going to die. One area that remains for us to work on, which is seldom discussed, is where we can have some leverage in order to extract information, that should be available anyway under the normal rules of humanity, but we haven't had to contend with that kind of situation with the type of enemy we have had. But I think there are some avenues and these are things that I know I am exploring that haven't

even been discussed by the select committee but before there is a close-out I hope to have some recommendations.

There are some areas in which we as Government do and probably will have some leverage. Now on the actual tables of discussion on normal international level, no, we don't. The enemy feels that it doesn't have to account for anything, they are pretty cocky about it, they are still fighting the war. But there are other areas in which I believe there is some vulnerability where we can exercise some leverage, and I think the existence of this committee has helped some of us to bring the attention to the majority of the Members of the Congress where that leverage does exist.

I am speaking of the substantial involvement we have in international monetary institutions.

As chairman of the pertinent subcommittee I have been working on that except I haven't had an occasion to exert that belief or that conviction. I think we will have a recurring source of leverage and can use it until we extract the information we should have had to begin with. Too many Americans forget what the war was all about and the circumstances under which it was fought and the fact that it has not been a normal relationship, it has been a sine qua non situation.

I think that everybody from Presidents to Secretaries of State, and Members of the Congress have been trying to find a handle on it. I think some have been overlooked. You have helped us and I for one am grateful you have taken the time to appear.

Mrs. HAGERMAN. I would like to add something to what you said. In World War II we were the winner; we could say, "Open the door." But when we are a loser or just a draw winner, you can't make the same demands as when you are the conqueror.

Mr. GONZALEZ. There is no substitute for victory. You are absolutely right.

The CHAIRMAN. We have some other questions before you leave today that we will submit.

To the two witnesses I would say you are very sincere, your answers very good, you are very charming ladies. On behalf of the committee I thank you very much for coming this morning.

The committee is now adjourned at the call of the Chair.

[Whereupon, at 10:12 a.m., Friday, June 25, 1976, the hearing was adjourned.]

HOUSE SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

WEDNESDAY, JULY 21, 1976

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON MISSING
PERSONS IN SOUTHEAST ASIA,
Washington, D.C.

The select committee met, pursuant to notice, at 10:30 a.m., in room 2118, Rayburn House Office Building, Hon. G. V. Montgomery (chairman of the committee) presiding.

Present: Representatives Montgomery, Gonzalez, Moakley, Schroeder, Ottinger, Lloyd, McCloskey, Gilman, and Guyer.

Also present: J. Angus MacDonald, staff director; Ms. Jeanne Shirkey, administrative assistant; Dr. Henry Kenny, Dr. Job Dittberner, and Mr. John Burke, professional staff assistants.

The CHAIRMAN. The committee will come to order.

I want to say to the members of the committee, this Friday the National League of Families will be holding its seventh annual convention here in Washington. I might say to the committee members who are not familiar with this, we feel like we did have some input into the situation of letting the next of kin and closest of kin of MIA's to be flown by the Air Force to this annual meeting. We are glad this is on track and that the members will be flown by Air Force to Washington not only to participate, but to receive information from the Defense Department pertaining to missing in action. This coincides, as I say, with the Department of Defense conference.

Several members of the select committee will be on hand at the convention to discuss the select committee's investigation.

All members of this committee are certainly invited to this seventh annual convention.

Col. Earl Hopper will be stepping down as executive director of the National League of Families. He deserves our thanks and appreciation for his contributions to our work. On behalf of the select committee, I wish to commend him for his outstanding performance during the past year. And, I would like publicly to congratulate Miss Carol Bates, who will succeed Colonel Hopper on August 1. Carol has been of tremendous help to our staff, and I know that as executive director she will continue to assist us.

Colonel Hopper, will you stand up?

Colonel HOPPER. Thank you, very much.

[Applause.]

The CHAIRMAN. Miss Carol Bates, will you stand?

[Applause.]

The CHAIRMAN. I recognize the gentleman from New York, Mr. Ottinger.

Mr. OTTINGER. I ask unanimous consent to have inserted in the record of our hearing a statement by Dermot Foley in connection with the testimony he previously gave. My staff has read the testimony and we are satisfied it is appropriate to include it in the record.

The CHAIRMAN. Is there any objection?

Without objection, it will be printed in our record.¹

The CHAIRMAN. The gentleman from New York.

Mr. GILMAN. Mr. Chairman, I too want to join with you in congratulating Colonel Hopper for extraordinary service "beyond the call of duty" during his years in serving the league and in assisting our committee in performing our functions. I have found Colonel Hopper, as I am sure have all of the members of our committee, to be a great resource in information and advice and in giving direction with regard to the work of our committee.

I want to thank him for all his efforts over the past year.

And to Carol Bates, I join with you in welcoming her on board as the new league director. Certainly she is no new face to any of us, having worked so diligently with all of us over the past few years.

Mr. Chairman, I too would like to commend you for your efforts in trying to make certain that the league has sufficient air transportation to their meetings. It became a critical problem over the past week to 10 days and I know of your extensive efforts in preparing the resolution that we had in hand ready to go into the hopper in the event that was needed. Perhaps that may have been the additional wedge that helped bring about the solution of this issue. I am concerned about the league's future transportation and I hope you receive some assurance that it won't be a problem in the days ahead.

Mr. Chairman, at the request of the National League of Families, I would like to submit for the record a letter dated July 19, 1976, signed by Colonel Hopper, with an attachment that sets forth some information concerning questions that were raised with regard to the extent of their membership and their representation, to clarify some of the issues that have been raised in prior testimony.

I have read the statements; they are factual and I request they be made part of the prior record of the last hearing.

The CHAIRMAN. Without objection, it is so ordered.²

I might say to the gentleman from New York that in preparing a resolution that might have been needed to authorize Air Force transportation by congressional action there was no objection from any of the Members of the leadership on both sides of the aisle that I contacted in the House of Representatives and it looked like we had no problem there.

To update the committee, we learned recently that the Vietnamese—North and South, the country has been united—were preparing, as we understood it, to release about 40 American civilians from the Saigon area. These were the Americans who were not able to get out when Saigon fell in 1975. We are not quite sure of the exact number. But these Americans were told they would be able to leave South Vietnam, these civilians. They were even taken to the airport, as we understand it, and then the Vietnamese changed their minds. These Americans were not permitted to leave South Vietnam a few days ago.

¹ See p. 103.

² See p. 114.

We were told by the North Vietnamese in Paris and in Hanoi there would be no problems in release of these American civilians. It has been almost 8 months now since this committee was given this information by the North Vietnamese. The committee is concerned that these American civilians who want to leave South Vietnam were not permitted to leave.

I have sent telegrams to both the Prime Minister and to the Ambassador of North Vietnam in Paris. I wanted the committee to be abreast of what action we had taken as we do have some responsibility in the House of Representatives for obtaining the release of these American civilians.

Now, to our witnesses this morning, the select committee is now through the 10th month of its investigation on POW/MIA matters. During that time it has become more and more apparent that an accounting would finally be gained only through negotiations with the Vietnamese. As we all know and as we reminded the Vietnamese in Paris and Hanoi, negotiations are the business of the Department of State.

One of the more important achievements of the select committee has been to have the channels of official communication between the United States and Vietnam reopened on this issue. At the urging of the select committee, the State Department reopened communications last March.

We understand there has been ongoing communication since that time, but the extent and nature of that communication are not known. We asked the State Department to testify on those efforts and report on the prospects for negotiations in the near future.

Our witness today, Ambassador Philip Habib, is well qualified to address himself to these developments. In addition to the experience with Vietnamese affairs gained as political officer in Saigon and his years of service as Deputy Assistant Secretary of State for Far Eastern and Pacific Affairs, he served for 3 years as senior advisor to the American delegation at the Paris peace talks.

After 3 years as Ambassador to South Korea, he became Assistant Secretary of State for East Asian and Pacific Affairs. On July 1 of this year, Ambassador Habib was sworn in as Under Secretary of State for Political Affairs.

Mr. Habib, thank you for coming here today. We know the State Department has already expended enormous time and effort on behalf of the MIA's.

Also I see with you Frank Sieverts, who has been close to the League of Families. I will let Mr. Habib introduce the other gentleman sitting at the witness table. Thank you for testifying. You may proceed.

STATEMENT OF PHILIP C. HABIB, UNDER SECRETARY FOR POLITICAL AFFAIRS, STATE DEPARTMENT; ACCOMPANIED BY JAMES D. ROSENTHAL, DIRECTOR, OFFICE OF VIETNAM, LAOS, AND CAMBODIAN AFFAIRS AND FRANK A. SIEVERTS, DEPUTY COORDINATOR FOR HUMANITARIAN AFFAIRS

Mr. HABIB. Thank you, Mr. Chairman and members of the committee.

Sitting on my left is Jim Rosenthal, who is the director for Vietnam, Laos, and Cambodian Affairs and who has worked with me long years in the Vietnam question.

With the approval of the committee I would like to read a prepared statement.

I am glad to appear on behalf of the State Department to describe for the committee our continuing efforts to account for Americans lost in connection with the Indochina conflict.

As the committee knows from its personal contacts with Secretary Kissinger, the Secretary and all of us with responsibilities in this area share the concern that is so widely felt about the lack of accounting for our men. We have always approached this as an important humanitarian problem, and we will continue to do so. We value greatly the consideration and cooperation we have received from the committee, and we admire the committee's own vigorous efforts on behalf of our missing and dead in Indochina.

Already before the Paris negotiations began, we were conscious of the need to account for our men because of the Communist side's refusal throughout the conflict to provide complete information on our prisoners of war, as required by the 1949 Geneva Conventions. As a result, we knew we would have to do all we could by all available means to obtain information about our missing personnel.

I was a member of our negotiating team in Paris and thus can testify from personal experience on the importance that the release of prisoners and accounting for the missing had in these deliberations. For example, in one of the first lists of negotiating points put forward by the North Vietnamese, the Communist side bracketed the release of prisoners with what they described as "U.S. responsibility for war damage in Vietnam" in a single numbered point. Although humanitarian issues such as POW/MIA's have been subjects of disagreement in the settlement of other past conflicts, I know of no instance in which an adversary so openly treated this humanitarian problem in this way. We thus recognized from an early date what we were up against and accounting for the missing a basic element of our own negotiating strategy.

I might note that international law, as framed in the Geneva Conventions, does not permit the linking of humanitarian obligations to other issues in the way done by the North Vietnamese.

North Vietnam is a signatory to these conventions. The conventions are not predicated on bargaining or reciprocity but are intended to provide basic standards that all countries should adhere to, regardless of their war aims and political and economic objectives. If this were not the case, the humanitarian standards in the conventions would themselves become subjects of dispute, and if that happened the framework of international law in armed conflicts would rapidly be shattered.

The Paris negotiations culminated in January 1973 in an agreement which included specific requirements for the release of prisoners of war on both sides and cooperation in the search for the missing and the return of the remains of the dead. The release of prisoners was to be accomplished in a 60-day period under the supervision of a Four Party Joint Military Commission, to be succeeded by a Four

Party Joint Military Team (FPJMT) whose sole mission was the search for the missing and the return of the remains of the dead. This MIA accounting requirement is the most explicit ever concluded, and I know of no previous case in which a special body was established by such an agreement specifically for this purpose.

This committee has already heard testimony about our efforts to make the FPJMT live up to its stated objectives and get on with the job of accounting for the missing. After prolonged negotiations, North Vietnam agreed in March 1974 to the repatriation of the remains of 23 Americans identified as having died in captivity in North Vietnam. Unfortunately, the sense of accomplishment produced by this was shortlived, and the return of the 23 proved to be the only instance in which the FPJMT accomplished any of its stated mission.

I might note that in the early days of the FPJMT, the Communist side submitted lists of their own personnel missing or captured in South Vietnam. The Republic of Vietnam authorities responded promptly to these requests for information, in precisely the spirit called for in the Paris agreement. The Communist side soon stopped submitting such lists, apparently realizing the awkward contrast which would highlight their own nonfulfillment of this requirement.

APPROACHES TO U.N. AUTHORITIES

Supplementing the FPJMT, we continued our efforts through diplomatic channels to press the Hanoi authorities on this subject. In a sense, the Paris negotiations continued through 1973 and into 1974—and a major part of our exchanges concerned MIA accounting. When Doctor Kissinger flew to Hanoi in February 1973, on the eve of the first prisoner release, he took with him records of information on a number of our men on whom information was likely to be available in North Vietnam. We raised the MIA accounting subject in each subsequent contact with the Hanoi authorities and pressed it in a number of formal diplomatic notes, one of which, dated July 29, 1973, was devoted solely to the MIA and return of remains question.

Our diplomatic efforts to obtain an accounting for MIA's did not end with the fall of Saigon. In July 1975, we approached the Vietnamese Embassy in Paris to request the return of the remains of three U.S. pilots whose names had been earlier broadcast. On August 9, the Vietnamese agreed to return the bodies. We expressed our appreciation and asked about specific arrangements. On August 13, the North Vietnamese withdrew the offer. We met with them again in September but they refused to renew the offer. Subsequently, your committee visited Hanoi and the Vietnamese returned these remains to you.

The activities of your committee such as your visits to Paris and Hanoi last December helped to stress further to the Vietnamese the concern for an early resolution of this problem. Following your report to the President and your consultations with Secretary Kissinger, the administration sent a message to the Vietnamese on March 26, 1976 stating that we were prepared to discuss with them issues outstanding between our two countries. In ongoing contacts we have had with the Vietnamese, and in our public statements, we have made clear that our primary concern in any discussions will be obtaining

an accounting for our missing men and the return of the remains of our servicemen killed in the war in Indochina.

Our initiation of this exchange demonstrates our policy of looking to the future rather than the past in our relations with Vietnam. We have no desire to refight the Vietnam war on the diplomatic front. We are prepared to talk to the Vietnamese, but as Secretary Kissinger has stated, without resolution of the MIA issue further improvement in United States-Vietnamese relations is not possible.

LAOS AND CAMBODIA

We have also pressed this issue with the other countries of Indochina where American servicemen were killed or reported missing. In Laos, the Lao coalition government formed in April 1974 undertook the obligation to account for the missing, as provided in article 5 of the Vientiane agreement. The Lao Government established a subcommittee to implement this obligation. Our Embassy in Vientiane held repeated meetings with both Vientiane-side and Pathet Lao members of this subcommittee. We provided lists of our missing men to facilitate searches. One American, a civilian pilot, was released on September 18, 1974, giving rise to hope that progress might be made on resolution of the approximately 320 MIA cases in Laos. However, as the Communist side in the Government gained strength in late 1974 and early 1975 and the coalition began to dissolve, momentum on the POW-MIA issue slackened. The Pathet Lao refused to permit American teams or teams from neutral countries or international organizations to visit crash- and burial-sites, some of which were readily accessible and which we knew contained recent and relatively intact wreckage.

We continued our efforts on the POW-MIA front after the coalition government was replaced by an openly Communist one in December 1975. The visit in late December by the Select Committee to Vientiane served as a stimulus to these efforts. Our Embassy, following up on the visit, has made several contacts with the Lao Government to convince them of our strong concern and to press for progress on an accounting. In formal approaches and informal contacts, members of our Embassy have sought ways to keep the issue before the Lao.

After all our approaches, as the committee itself knows, the Lao, while expressing interest in eventual resolution of this problem, have not undertaken any specific efforts to produce an accounting. They have claimed that they will search for all those missing in Laos, Lao as well as foreign, but they have made clear that other matters have a higher priority for them.

The Lao have available ample material, which we have provided, to investigate and produce an accounting on many of the crash and burial sites in their country. Except for the release of Emmett Kay in September 1974, there has been unfortunately no progress in the POW-MIA field.

With regard to Americans unaccounted for in Cambodia, we attempted, prior to the end of the conflict, to inquire about them through the North Vietnamese and the International Committee of the Red Cross. We have also supported the continuing effort of the International Professional Committee for the Safety of Journalists on

Dangerous Missions to seek information about missing newsmen in Cambodia. Our mission at the United Nations contacted the Cambodian mission late last year and provided them with a list of Americans missing in Cambodia. The Cambodians have consistently answered that there are no Americans and no foreigners in Cambodia, and they have produced no information on any of our missing or dead.

OTHER MEANS OF SEEKING ACCOUNTING

In addition to these diplomatic efforts, we took action to account for our men by our own means. From our experience with returning prisoners during the conflict, we knew this was an especially good source of information, and elaborate preparations had been made to debrief all returning POW's. This information was systematically analyzed and correlated and remains to this day the most significant accounting we have had for our men.

Soon after the Paris agreement was signed, we established a Joint Casualty Resolution Center for the dual purpose of carrying out searches for the missing and compiling information from all sources on each of our men. Computer techniques facilitated the task of the resolution of each individual case. Although we made good use of these impersonal means, we never lost sight of the fact that we were dealing with the names and fates of real people, whose wives, parents, and families desperately sought information about them.

I can assure this committee that the President, the Secretary of State, and the other highest officers of this administration continue to feel keenly the obligation to press for the fullest possible accounting for all our men. Our efforts have applied and will continue to apply equally to those who have been declared dead and to those who are listed as missing.

In this regard it should be noted that in the few cases in which information has been forthcoming, as often as not it has applied to men previously declared dead. For example, two of the three whose remains were returned to this committee during its visit to Hanoi last December had previously been declared dead, one at the time his plane went down in North Vietnam in 1965, the other more recently, in 1973, with the third man listed as missing. However, the return of those remains helped the families of all three of those men to accept the fate of their loved ones.

What we mean by an "accounting" has sometimes been of concern. Clearly, we want to know what happened to these men. We understand, of course, that many were lost in circumstances which make it unlikely that any direct information about them will be recovered. Some were lost over water, or in heavily forested or mountainous terrain, where intensive search is virtually impossible. What we expect from the Communist authorities is that they will provide all the information in their possession on our POW's and MIA's, and that they will carry out serious search efforts to ascertain the fate of others. The North and South Vietnamese authorities told this committee and other visitors that they have established agencies to search for the missing. During the FPJMT talks they told us that they know where some of our men may be buried. We consider it unacceptable that the Vietnamese au-

thorities should have such information and yet should withhold it apparently in the belief that they can use it for bargaining purposes.

PROPOSED PROTOCOL TO GENEVA CONVENTIONS

In this connection, I would like to report to this committee on the work of the Diplomatic Conference on Humanitarian Law in Armed Conflict, which recently concluded its third session in Geneva, at which you, Mr. Chairman, served as a valued congressional advisor. The U.S. delegation at this session played a key role in gaining preliminary approval for a proposed new section on the missing and dead as part of the proposed draft protocol to the 1949 Geneva Conventions on which the Conference is working. Although the Geneva Conventions have provided generally for procedures on accounting for POW and MIA's, this new section for the first time would establish the right of families to know the fate of their relatives as a new principle of international law. It spells out in specific detail the obligations of governments and parties to conflicts with regard to searching for the missing, providing information, and protecting the remains of the dead. We hope and expect that this section will receive final approval of the Diplomatic Conference during its final session in Geneva starting in April 1977.

The initiative for this section flowed from earlier actions at international meetings in which the U.S. Government also played a leading role. During the International Conference of the Red Cross in Tehran in November 1973, for example, our delegation helped draft and win approval for a resolution calling for accounting for the missing in armed conflicts. This was followed in November 1974 by a U.N. General Assembly resolution, also sponsored by the United States, which for the first time referred to the entitlement of families to information about the missing. The U.N. resolution concluded by calling on the Diplomatic Conference to act on this subject, and the Conference has responded with the new MIA section of which I have just spoken. Although the New Geneva protocol does not apply to armed conflicts of the past, we believe that this section, in addition to breaking new ground for the future, helps underline the concern felt in the international community about the lack of accounting for the missing in past armed conflict situations.

STEPS TAKEN BY U.N. AND RED CROSS

In addition to the resolutions to which I have referred, the United Nations and International Red Cross have also taken practical steps to help solve this problem. This committee knows from personal experience the assistance that has been provided by the U.N. High Commissioner for Refugees and his staff, both as a channel for communication and in arranging for the return of Americans from Vietnam. The UNHCR played a key role in the release of 14 U.S. and foreign prisoners from Hanoi in October 1975, shortly after this committee came into being. UNHCR representatives also assisted members of the committee in the repatriation of remains during your visit to Hanoi last December. In line with its traditional responsibilities for POW's and MIA's, the International Committee of the Red

Cross (ICRC) has made continuing efforts to help account for the missing. The ICRC's Central Tracing Agency provides a repository for POW/MIA information for the entire world.

The ICRC also is serving as a tenuous lifeline for Americans still in South Vietnam. Despite assurances given to this committee by North Vietnamese officials that all Americans would be free to leave, a substantial number are still stranded in Saigon. There were recent reports that another group of Americans would be coming out, but this has not yet happened. This is a matter of continuing concern to the State Department, and we have appreciated the committee's own efforts to expedite the departure of Americans from South Vietnam.

I wish to close this statement by expressing our thanks for this committee's own contribution toward resolution of this humanitarian problem. Secretary Kissinger and all of us in the State Department working on this subject appreciate the committees' determined efforts to make progress toward an accounting. You have been resourceful and tireless, and your efforts have helped demonstrate to the Communist authorities the importance we attach to this subject. I can assure you our own efforts will continue as long as necessary to obtain the fullest possible accounting for our men.

The CHAIRMAN. Thank you, Mr. Secretary, for your up-to-date and comprehensive report. I would like to make one or two comments before questions by other members. The United Nations High Commission on Refugees has worked very closely with this committee and I would like to publicly state that they, plus the International Red Cross, have been very cooperative to our select committee.

Mr. Moakley had to go to a Rules Committee meeting. He will be back.

Mrs. Schroeder.

Mrs. SCHROEDER. Thank you very much, Mr. Secretary and Mr. Chairman.

I will attempt to be brief. Since we still have an Embassy in Laos, I wanted to ask if any attempts have been made recently, and if so, what have they been, and whether or not they have been at all successful.

What is the status of the Laos efforts?

Mr. HABIB. I would like to give you a fairly full report on that if I could, Mr. Chairman, Mrs. Schroeder.

With the formation in April 1974 of the coalition government the contending factions in Laos entered into a third coalition since World War II. One of the tasks, as I said, that new government undertook under the agreement was to help in the accounting of the missing in action and supplying information about them.

I outlined in my opening statement some of the actions we have taken earlier. I would like now to tell you what we have done just within the last few months, if I may.

Beginning from the time that members of the select committee—on December 23, 1975—met with Foreign Ministry Chief of Cabinet Sou-banh Srithirath in Laos and gave him some MIA files and asked for information. He promised information on the Americans as it developed in the course of searching for missing Lao. Since then, on April 19, 1976, the U.S. Embassy in Vientiane delivered a note to the Lao

Government which asked for results of their search efforts, stated the concern of the U.S. Government for an accounting of MIA's, and observed that the issue bears importantly on future Laos-United States relations.

On April 25, 1976, while visiting Vientiane, the Department's Director for the Office of Vietnamese, Laos, and Cambodian Affairs—that is, Mr. Rosenthal here—raised the question of MIA's with the Laotian Secretary of State for Foreign Affairs.

On July 16, 1976, an officer of the U.S. Embassy in Vientiane delivered to the Lao Foreign Ministry files of MIA cases which the select committee had provided. He also asked for information on the cases whose files the select committee had left last December. The Lao said that they had no information on the earlier cases.

That is where it stands at the present time. The only other case that still remains open is the Charles Dean case in which there the response of the Pathet Lao has been a consistent unyielding profession of ignorance despite all the evidence indicating that they must know the fate of Charles Dean as well as his Australian traveling companion who were taken prisoner in 1974.

Mrs. SCHROEDER. They have said they don't know anything about this and they consider it closed; is that correct?

Mr. HABIB. Their response in the Dean case has been consistent, unyielding ignorance that is, they don't respond.

Mrs. SCHROEDER. How do you evaluate the response?

Mr. HABIB. They are unwilling to respond in the sense they are unwilling to discuss the subject with us. It isn't a rejection—it isn't a denial of having information. I evaluate the response as one of being unwilling to discuss the subject.

Mrs. SCHROEDER. Are they hinging it to anything else? They are not doing what the Vietnamese are doing?

Mr. HABIB. Not in quite as direct a linkage, that is correct, but in more general terms, the question of our overall relations with them has been linked to the so-called obligation that we have with respect to binding up the wounds of war. They have not linked it as directly to the POW MIA case as the North Vietnamese have done.

Mrs. SCHROEDER. But subtly they have.

Mr. HABIB. Much more subtly; yes.

Mrs. SCHROEDER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. We are trying to stay under the 5-minute rule. I hope we will get a quorum and then the committee will not have to recess. We are in session this morning.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Secretary, we found your remarks to be most enlightening, and in our attempts to pursue this issue we find there is a continual impasse with our Nation insisting upon an accounting for humanitarian purposes and with the Vietnamese insisting we first make some reparations. How do you foresee us overcoming that sort of impasse in the future?

Mr. HABIB. I think the manner in which the committee first broached this subject to us and the manner in which we then proceeded is the way. That is to say, I think that we have to involve the North Vietnamese in the discussion of this issue. If you will recall, when the

committee came back from one of its trips, it said to us that it thought they would be prepared to talk but they wanted to talk on wider relations. At that time, we did respond and we expressed an interest in discussions on relations but we made it equally clear that of primary concern to us was the problem of accounting for the POW's and MIA's. We have since continued to make that clear.

I would say that the only means that I can foresee at this point for making some progress along these lines is to convince the North Vietnamese that they must be prepared to accept the accounting as a primary responsibility, and our concern on this issue as a primary factor, before any progress can be made on these relations. Unless they do so, I would suggest we will then be in a bargaining situation, one in which the North Vietnamese have already staked out a very high price.

Mr. GILMAN. With regard to that high price, when we were in Hanoi there were references made to some agreements made between our Government and Vietnam with regard to postwar reparations. Can you set forth for us just where we stand with regard to those negotiations? Were there any agreements we are not aware of, secret memorandum that this committee is not aware of?

Mr. HABIB. There is no agreement or secret memorandum which this committee is not aware of in this respect. There were, as the committee is aware, some letters and exchanges. With respect to those letters, I think the committee has been informed of the content of those letters as they bear on the question which the committee has raised. That is my understanding.

Mr. McCLOSKEY. Will the gentleman yield?

Mr. GILMAN. Yes. I am pleased to yield to the gentleman from California.

Mr. McCLOSKEY. With all due respect, Mr. Secretary, this committee asked the Secretary of State and you the same question before we went to Hanoi last December. You did not advise us of that secret letter and we discovered its existence only when we got to Hanoi. Can you tell this committee now why we went to Hanoi without being advised of the existence of that letter which was known to the Secretary of State, especially after we asked you about it?

Mr. HABIB. I don't recall that we were—were we asked specifically about the letter before you went?

Mr. McCLOSKEY. We didn't have any idea the letter existed. We asked you in November if there were any secret agreements that we should know about before we went to Hanoi and we were not advised by you or the Secretary of State of the letter's existence or of the \$3.25 billion figure which we later ascertained.

Mr. HABIB. That is not an agreement. It never developed into an agreement. Very frankly, Mr. Congressman, I didn't know of the existence of the letter at that time either.

Mr. McCLOSKEY. But the Department knew of the existence of the letter. That is one of the frustrations with which this committee has had to contend. We ask for facts and we are answered by people who say, "We don't know."

Mr. HABIB. I am not saying I don't know in response to your question. Let me make the answer very specific. There is no agreement,

there was no agreement, there never was an agreement as far as I know, and I think I would know at this stage. We have researched it and there is no agreement with respect to the question of aid involved in that letter.

That letter was simply a letter primarily designed to set up a Joint Economic Commission pursuant to article 21 of the Paris agreement. The truth of the matter is there was no agreement.

Mr. GILMAN. If the gentleman will yield. * * * Would it be possible to present that letter and make it part of our committee's records since there has been such an issue raised with regard to the correspondence? We learned about it for the first time when we were in Hanoi and the Vietnamese officials referred to that letter.

Mr. HABIB. I think that is a question which has been raised previously. I will take it back with me, but as you know it involves something which is not within my personal prerogative to respond to, that is a question of Presidential correspondence. But I will provide an answer to that question to the committee.¹

Mr. GILMAN. Mr. Chairman, I ask that at this portion of the record the letter be inserted provided State furnishes that letter to the committee.

The CHAIRMAN. We would like to get the letter.

Mr. HABIB. I have responded that I will take the question and I have given you the answer that we have had previously that there are other issues involved and a question of Presidential correspondence which I am not in a position to respond to right now but I will respond to the committee. Exactly how I will respond will depend on the general issue involved and the position the administration takes.

Mr. GILMAN. Without objection, may that letter be inserted?

The CHAIRMAN. Without objection, if we get the letter.

Mr. OTTINGER. We have previously requested the letter which I understand is now under the control of the National Security Council. The Secretary of State said at a press conference that the offer of some \$3.25 billion of aid was of course conditioned upon certain performance by the North Vietnamese actions with respect to the war that was continuing and congressional approval. If that is the case it seems to me it would be of advantage to the administration to have that known. The inference we have to draw is that the case is as the North Vietnamese stated to us, the letter represented an unconditional pledge. I think it would be very much to the advantage of the Government to have it released unless that letter is embarrassing. If that letter is embarrassing it seems to me that is something we ought to know.

The CHAIRMAN. Mr. Secretary, could we take about a 10-minute break? It might be longer. We have a vote. We will continue this discussion. The committee will be in recess for 10 minutes.

[Short recess.]

The CHAIRMAN. The committee will come to order.

Without objection, Mr. Guyer, I yield to you for some questions.

Mr. GUYER. Thank you, Mr. Chairman.

I would like to just address a couple of questions, if I might, on the heels of what was said just a moment ago. It seems the letter, the missing document we have asked the Secretary for many, many times,

¹ At the time of publication, the Select Committee had not received the Nixon letter.

and which he has said repeatedly there was no such agreement made, relating to a pledge in dollars. That matter I think, has been handled now since it has been made a part of the record.

But let me say this in behalf of the families and their concerns. On numerous occasions the Secretary has said he does not trust nor accept the word of the North Vietnamese. Then shouldn't we be consistent in not accepting their word when they say there are no Americans there?

[Applause.]

Mr. GUYER. I don't mean to post that as a conclusion that the bad guys are liars, but it does not ring true when we say we believe them in one vein and then don't in another.

Mr. HABIB. We obviously don't rest on their word. If we did we would not have been paying attention to the problem. This committee would not have been formed. The efforts that have been made to try to elicit from them the fullest possible accounting would not be conducted if we accepted their word. So I would say it isn't a question of accepting their word, it's a question of continuing to pursue the facts as best we can.

If there aren't any alive, then let them account for them as best they can.

Mr. GUYER. It appears in the running accounts we have heard first, they said there wasn't anybody; and then they discovered we knew there was, and then they agreed to return their remains almost on a hostage basis. It does seem as if this has been a purposeful withholding of information.

Mr. HABIB. There is no question of that.

Mr. GUYER. They have been absolutely unreliable, hypocritical, and I think we shouldn't fool anybody about that and get it into the record.

Mr. HABIB. There is no question, Mr. Congressman, they have information they haven't given us. Whether they have all the information we have sought is another question. As I stated in my opening statement, it is quite possible with respect to some of the missing that they would have gone down under conditions where there would be no information. But we are certain that they have information which they have not given to us. That is correct.

Mr. GUYER. Last November in a meeting with the committee Secretary Kissinger said they were not holding live Americans but he was not sure about Laos. Could you expand on why the Secretary is unsure about remaining POW's in Laos?

Mr. HABIB. As I said to Mrs. Schroeder earlier, we have been continuing to pursue the matter with the Lao authorities. I think at that time he reflected the general probability that information we had with respect to the Dean case was solid and that we had had clear indications earlier on that Dean was alive. But the refusal of the Lao to affirm in any way that they had him or that they had ever had him has persisted in a refusal to provide information.

Also, I think there has been a lingering feeling on the part of some that things weren't as well organized in Laos and that therefore one might have some expectation that you could discover that somebody really didn't know, say, about Dean that they hadn't told somebody else. At this stage of the game all I would say is, what we have to do is to continue to pursue the question, to continue to pursue it. And in

the process of developing relations as you go through these kinds of discussions with the authorities in Vientiane, at some point or other hopefully they would begin to provide information on particular cases.

Mr. GUYER. We heard a report the other day that something like 800,000 people were killed in Cambodia since the takeover. Is that correct?

Mr. HABIB. Nobody knows the figure. I would hesitate to accept that figure. There is no question that on the basis of the reports that were made by people who came out, refugees who were present in the period immediately following the fall of Phnom Penh there was a substantial loss of life. We don't have a figure for it. It would be almost impossible for us to have a figure.

Mr. GUYER. One final thought. We seem to be frustrated in many ways. First of all I will say the Department of Defense intelligence unit has been very cooperative in letting us get into the personnel files. I intend to get into more of them with their permission whether this committee continues or not. I owe that to the people back home to see what I can find out that they don't know and use all discretion. I wonder where we go from here? Repeatedly through all the hearings the chairman has brought a variety of witnesses into almost every facet of the problem.

While I was home I saw an editorial. Someone wrote to the Toledo television station channel 13, saying many people are out at the end of their rope and they say we ought to bargain with these people one at a time for the return of the remains.

I am only stating that as a quotation from an editorial. They are at such a point. I understand reliably even from the war involving the French they are still making deals returning remains; and if this is true, what comment would you have on that sort of thought?

Mr. HABIB. I guess I just quote the Secretary of State, who said we are not going to bargain. I have taken that to be the sentiment of the Congress in regard to the question. Certainly given the fact of congressional amendments to existing—

Mr. GUYER. I want to make clear that was not my philosophy. We are asked a lot of questions from a lot of quarters. Where do we go from here? What proposal do you have, from your expertise and background, that would be helpful to us as Congressmen to keep faith with the people who have borne these losses? What do we do now?

Mr. HABIB. The committee has already done a great deal to focus attention on the problem. The committee in many respects reopened the channels of communication in this regard. Personally I happen to agree with something the chairman said earlier on that. You brought the thing to a certain stage and now it is a question of negotiation. Where do we go from here? We are going to keep talking to them, keeping it in front of them as the primary purpose that we have.

As far as what the committee itself can do, what each individual Congressman can do, I would say I don't see the Congress as a whole ever dropping the subject or the American people losing interest in this. Certainly we are not going to lose interest in the question. I would agree with the chairman's statement. However, it has at this stage become a problem of negotiation and we are pursuing that track. There is an ongoing exchange in this regard which we do not intend to let lapse.

Mr. GILMAN. Will the gentleman yield?

The Chairman. I am sorry, I have let the gentleman have three additional minutes. I will come back to you.

Mr. Ottinger.

Mr. OTTINGER. Thank you, Mr. Chairman.

We are in a situation where the Vietnamese clearly have not cared about our missing in action. It seemed everybody was in agreement we were going to have to deal with them if we are going to get that information. The President seemed to be in accord with that. When four members of this committee went to Vietnam, the Vietnamese told us unequivocally that they were willing to negotiate without condition on the whole range of outstanding matters, including the missing in action.

We came back. We tried to get the administration to make some kind of gesture in response to the return of three bodies. They were trying to get this going on a step-by-step basis. It appeared that we were on the right track, that the administration was going to start to make some affirmative moves in this direction.

Suddenly the President apparently in response to pressures from Mr. Reagan simply withdrew altogether. He made a number of very inflammatory statements and said the North Vietnamese—I don't have the exact words here—were a bunch of international bandits and he wasn't going to consider negotiations under any circumstances and withdrew. If that is the administration position, how are we going to get these negotiations going? If we want to get the missing in action accounted for, the information the Vietnamese have, it certainly doesn't seem to me that the administration is pursuing a path where it is likely to happen at all.

Have notes been delivered? Considering the public statements of the administration which seem to contradict what you are telling us that you are pursuing negotiations; what evidence is there that there is any good faith at all?

Mr. HABIB. Let me go back to the first statement made by the President. I think it was following his meeting with the committee in which he said:

I have also indicated my administration will make all efforts . . . this is a press conference of March 25, 1976— . . . to achieve as full accounting as possible for our men still missing in Southeast Asia. We therefore are prepared to meet with Vietnamese representatives at a mutually agreeable location to discuss the MIA question as well as future relations.

The Secretary of State on the next day when he was asked about the letter to Hanoi said:

I stated in November and the President in December that we were in principle prepared to normalize our relations with Hanoi. We have now indicated this to Hanoi and asked them what they want to discuss in connection with this.

What we have sought to pursue in the discussions which grew out of the report that the committee itself had made to the President and the Secretary, what we have tried to pursue is a course of discussion with the North Vietnamese which would have some hope of producing the kind of information with respect to POW's and MIA's that we have been seeking. That is not an easy task given the continued insistence on certain conditions on the part of the Hanoi representatives with respect to the question of accounting for the POW's and

MIA's, continued insistence upon certain obligations of the United States derived from the Paris agreement which they have stated publicly, which they have stated privately.

With respect to your particular question about the notes that have been exchanged and the contacts that have gone on, early in this year I think we told the committee that we were going to be engaged in an ongoing process and for that process to follow a pattern which would have the best chance of producing the kind of discussions we thought were necessary we didn't intend to make the process public. In fact it would be best if it were not made public, exactly what was being said at each stage of the contact.

That isn't only at our instigation I might say. But more specifically it is quite clear that if you want to have a successful ongoing contact on matters as delicate as this you would be better off if you don't go and publicize every time you have a contact. We have followed that procedure but we have kept the committee informed, I believe, that the contacts have been ongoing and they still are.

At the present time the exchange continues and I think it is wrong to make a practice generally of confirming, characterizing, or releasing such diplomatic exchange. I think the process, which is in this rather difficult stage, should be allowed to proceed normally. The Congress through its appropriate committees can question us as to whether or not we are pursuing the objectives that have been described by the committee and that we have stated for ourselves.

Mr. McCLOSKEY. Mr. Secretary, the questions I am about to ask you are couched with what I hope you understand to be is complete respect for you if not the State Department. Before I go ahead, I want to ask you if there is any question I might ask to which a truthful answer might jeopardize the ongoing negotiations with the Vietnamese. Is there any subject you would like me to avoid?

Mr. HABIB. There are some questions—

Mr. McCLOSKEY. Do you think the North Vietnamese are an international group of pirates?

Mr. HABIB. You didn't let me answer and say there are some questions I might not be willing to answer.

Mr. McCLOSKEY. Can you give me a yes or no answer? Do you think the North Vietnamese are a group of international pirates? Yes or no, or would you prefer not to answer?

Mr. HABIB. You know there is no such thing as a yes or no answer to that question. The context in which you are asking me to make an answer is not an appropriate one for a career Government servant to be asked to make and therefore I will decline to answer that specific question, but there are no questions you can ask me that I will not answer one way or another.

Mr. McCLOSKEY. If you were representing the United States in negotiations and the chief of state of a foreign nation said you represented a group of international pirates, would you negotiate with that nation under that accusation?

Mr. HABIB. One negotiates when it is in one's interest to negotiate and when there is an objective to negotiate. I might point out to you—

Mr. McCLOSKEY. I have asked for a yes or no answer. Do you decline to answer?

Mr. HABIB. I would continue to negotiate.

Mr. McCLOSKEY. Even though the Chief of State had said you were a bunch of international pirates?

Mr. HABIB. If it were in my interest to negotiate I would continue to negotiate.

Mr. McCLOSKEY. Mr. Secretary, under our mandate from the House this committee considers it in the interests of the United States to be solely concerned with obtaining a proper accounting of the MIA's. In his ongoing negotiations, does the Secretary of State have any interests of which we are unaware with the Soviets, the Chinese, or any foreign nation which are equal or superior to the need for a full accounting of MIA's?

Let me cite an example. If we were concerned about North Vietnamese support of a rebellion in Thailand or the North Vietnamese giving undue weight to the Chinese or Russians in a manner which might jeopardize our negotiations with those two countries, can you tell me if that interest would be equal to or superior to the mandate of this committee to get a full accounting of the MIA's?

Mr. HABIB. There isn't anything superior to it or equal to it in the sense that if you want to talk about the general interest of the United States that there should not be a global war, I would say that is probably of greater interest. But I am talking in terms of the specific context in which the committee's work has come about, I would say that has had a fundamental—it is of fundamental importance in that particular context.

The Secretary has stated it is our primary concern in dealing with the North Vietnamese.

Mr. McCLOSKEY. But there is no other interest in these ongoing negotiations that is equal to or superior to our desire to get a full accounting of the MIA's?

Mr. HABIB. Absolutely not in that context.

Mr. McCLOSKEY. If that is so, Mr. Secretary, why would the administration oppose the repeal of the application to North Vietnam of the "Trading With the Enemies Act" if repeal of that embargo might be the gesture necessary to get the Vietnamese to give us that accounting?

Mr. HABIB. I don't agree and I don't think the administration agrees that that would be the best way to get an accounting. I don't think it would give us a better chance. The argument can be made just as effectively, and I think more logically on the basis of our experience with them that you don't give something for nothing. Let me finish. If you are going to get into negotiations, you are going to negotiate a whole range of issues. But our primary concern is to get an accounting.

Mr. McCLOSKEY. If they give us an accounting, would you be willing to repeal the trade embargo? Can you answer that yes or no or you would prefer not to answer?

Mr. HABIB. That isn't a simple—

Mr. McCLOSKEY. I am asking the questions and you are giving the answers. The question is clear.

Mr. HABIB. But I can answer them the way I want.

Mr. McCLOSKEY. Mr. Secretary, my opinion until today has been that this committee should go out of existence on September 11 at the

end of our year's mandate. The primary mission of this committee is to see if we can force negotiations as well as an attitude on the part of our own Government which will lead to an accounting. If we leave this committee without having achieved that—

Mr. HABIB. But you have achieved that. The committee has achieved that.

Mr. McCLOSKEY. No. Let's go back to the primary question. If the accounting for MIA's is our primary goal, wouldn't you be willing to repeal the trade embargo with North Vietnam if they were willing to give us a full accounting?

You may answer that yes, no, or I would decline to answer.

Mr. HABIB. Let me give you a proper answer to the question. The question is an important one. I think it is deserving of more than a yes or no answer. What you are saying is what we have been saying all along, that our primary responsibility in these ongoing contacts and negotiations which will develop from them should be to get an accounting for the POW's and MIA's. That is our position and that is the committee's position and it is one you stated.

Now, how do you get that? You are saying, if they give you that would you then do this? We might be able to do this and a half dozen other things. If we would get a complete accounting it would change the whole nature of our attitude toward relations with North Vietnam. That is what we mean when we say it is the primary purpose.

Mr. McCLOSKEY. But you are not answering my question.

Mr. HABIB. I am not going to pick out one single thing.

Mr. McCLOSKEY. You are not answering the question.

Mr. HABIB. I would rather say that among other possibilities. Why limit yourself to that?

Mr. OTTINGER. Will the gentleman yield?

The CHAIRMAN. His time has expired.

Mr. LLOYD. Thank you very much, Mr. Chairman.

I appreciate your being here, Mr. Secretary. I would like to ask you the question. You started to allude to it in your colloquy with Mr. McCloskey. In your opinion has this committee performed, has it reached some logical conclusion? Has it done what you thought it ought to do or has it gone as far as you thought it ought to go?

Mr. HABIB. I think that the committee has done not only what we thought it ought to do; it has done what the families thought it ought to do and what its mandate from the Congress called upon it to do.

I happen to agree with something the chairman said at the opening. What the committee has done has brought the problem together, brought certain facts together, and produced a negotiating situation so that I think that the process of negotiation now in effect becomes the primary focal point for trying to get an answer to this question that has plagued us for so long. I can assure you that we intend to pursue it whether the committee exists or doesn't exist.

Mr. LLOYD. My next question was going to be what protective covenants would exist, say, this committee should go out of existence.

Mr. HABIB. That we will continue to pursue the matter?

Mr. LLOYD. No. I am talking about the State Department and their attitude.

Mr. HABIB. Don't you worry about the State Department's attitude. As long as anybody is around who has any sense of right or wrong,

this issue will not be allowed to lie in the State Department and be passed over. It is not a question of the State Department having any less interest in this than the Congress or the families themselves. We have a profound commitment to getting an accounting for the POW's and MIA's.

Mr. LLOYD. I yield to the gentleman from New York.

Mr. GILMAN. Thank you.

If I might remind the Secretary the reason the committee came into being was the feeling that prevailed throughout the Congress and the Nation that the State Department had let this go too long on the back burner and wasn't giving it full attention. That is what some of us are concerned about; that if this committee does cease to function—and that, I believe, is what the gentleman from California is suggesting—what assurance do we have that this issue will receive priority attention? As a matter of fact, there are some of us who at this time feel that it is not receiving the type of priority attention, the diligent pursuit, we would like to see in the State Department. While we recognize the necessity for having some confidentiality with regard to the type of negotiations and the steps that you are undertaking, we hear reports that there have only been some telephone and written communications that are transpiring and that serious negotiations that are not under way.

This is what we are concerned about. We would like to have some assurance and some indication that this issue is going to be kept on the front burner.

Mr. HABIB. I will give you my own personal assurance and those of my colleagues that we will pursue it. In addition I would say, as is normal and as should be, Congress watches over us and there are committees of this Congress which will see that we do what we say we will do. I presume the Armed Services Committee and the International Relations Committee won't let us forget this issue and if they did the families won't.

Mr. McCLOSKEY. Will the gentleman yield?

I wonder if we may be assured that we will be given copies of all documents that relate to these ongoing negotiations under the injunction if you wish that we retain the confidentiality?

Mr. HABIB. As you know when you ask for all documents you immediately put me on the spot of having to address a larger question and I know that.

Mr. McCLOSKEY. While you are on that spot could you answer yes, no, or I prefer not to answer?

[Applause.]

Mr. HABIB. The answer is very simple. I can assure you that the Congress will be kept fully informed. That is a fair answer.

The CHAIRMAN. The Chair has been lenient. We will have no expression from the audience from here on out.

The gentleman has 1 more minute.

Mr. LLOYD. I yield to the gentleman from New York, Mr. Ottinger.

Mr. OTTINGER. Among the things that could be covered in these negotiations, would there be included the reestablishment of relations with Vietnam?

Mr. HABIB. That has been made clear by both the President and the Secretary in terms of the general issues that could be discussed.

Mr. OTTINGER. The President is quoted in the Washington Post of April 23, 1976, as having said: "Under no circumstances do we contemplate recognizing North Vietnam."

Mr. HABIB. That was in response to a story, as I recall it—I do not have to look at my files because I remember it very well—which accused, or rather in which there was a statement made in an accusatory manner, that there was something going on with respect to recognition of North Vietnam at the moment.

What the President, as I recall, was replying to was to that statement. The President and the Secretary indicated in the statements they made with respect to the contacts with the North Vietnamese that whereas our primary concern in such discussions would be obtaining accounting for our men, that we were prepared to discuss the issues between our two countries, and that has not been changed in any respect whatsoever.

The CHAIRMAN. Mr. Gonzalez?

Mr. GONZALEZ. Thank you, Mr. Chairman.

Mr. Secretary, you are absolutely correct in one respect. Speaking for myself, I can assure you that as long as I am honored to serve in the House of Representatives, this issue will always be maintained alive until it has some satisfactory resolution.

Mr. HABIB. As it should be, Mr. Congressman.

Mr. GONZALEZ. I can assure you, you are dead right on that, because it is not going to subside. But it seems to me that, as I review in my own mind the succession of events, those of use serving in the legislative branch lose a lot of time trying to go and dig into this shadowy penumbra of the type of diplomacy that has developed within the last 6 years.

If you will review your notes, you will find that on the occasion of the first breakfast meeting the only question I asked the Secretary was:

Are there any side memorandums, any codicils, any letters or missals or writings or verbal understandings that have not been disclosed?

His answer was categorically no, plus the assurance that he had on his appearances before the pertinent committees said everything. When members of this committee went to Hanoi, they were then shown this letter that was purporting to be from the President of the United States assuring the North Vietnamese, or the Communists, that some kind of aid was definitely a commitment on the part of this country.

My mind reverted to January 1973 on the occasion of the funeral of President Johnson, which was coincident with the news of the Paris agreements. I had access to foreign press, the Spanish language press, the French language press, the Portuguese language press, and each one of them carried a release stating categorically that one of the terms of the agreement was a binding commitment for reparations—and they used the word "reparations"—on the part of our Government. This never did appear in the American press.

So, while on the bus, on the way to Johnson City, I asked the chairman of the Appropriations Committee, and he said that he understood some figure had been mentioned of near \$3 billion, and added further that he doubted that Congress would ever approve any such thing.

Well, I wondered why this had never been really revealed either to the Congress or by indirection to the American people. The answer the Secretary gave implied that he did not know about the existence of this letter, which I understand this morning's interrogation has resulted in a confirmation of the existence of that type of a letter.

Well, certainly the Congress has never been informed. I believe it is demeaning to find Members of the U.S. House of Representatives confronting an erstwhile enemy just as bitter now as he was during the actual warfare, to be told something that was denied them by their own leaders in our country. So I do not think that that is going to be productive of anything.

I do not think there is anything we can do to compel you as a faithful Under Secretary to shape and formulate policy. I do not think we are going to get, nor should we seek, any commitments, but I think there are areas that we should concern ourselves with that should be productive, that should be affirmative.

For example, the House has pending right now the so-called articles of agreement to amendments to the charter of the International Monetary Fund. I have been informed that the North Vietnamese are most anxiously and desperately trying to join this Fund; also, the Asian Development Bank.

In both institutions, the United States has a very heavily weighted vote. My information, as a member of the pertinent committee and subcommittee, is that the Secretary of the Treasury is under heavy pressure from the State Department to go along, sight unseen, with some of the terms of these amendments which would imply that no effort is being made by our representatives and spokesmen to hold out one bargaining weapon that we still have in our arsenal.

You yourself say that we will negotiate. This has always been true in diplomacy, Metternich and everybody else, as you well know. You negotiate, no matter what names you have been called, when it is convenient to negotiate. I say it is convenient for us to negotiate on the basis of the IMF charter amendments, on the basis of our contributions to the Asian Development Bank and to the other international financial institutes that we contribute very heavily to.

I think we cannot expect anything but folly and utter disregard for the honor of our country as long as we do not stand up in the proper way to defend the proper interests of our national sovereignty.

My understanding, and I would like to know if you have any knowledge of it, is that the Treasury Department is subservient to the desires and the wishes and the opinions of the State Department in these matters. Now, again, that is an executive branch function; I do not know, but it is impinging heavily on the pressures that are placed on our committee chairman, on the Members of the House, to approve this type of legislation without a full discussion of these other aspects.

Mr. HABIB. I would like to take that last point that you raised. I think it is one in which the committee has a right to understand why we have taken the position we have taken.

Obviously, we are sympathetic with the objective of trying to assure in the best manner possible the obtaining of information, an accounting on the MIA's. But taking this particular point that you are raising—that is, using the earmarking of U.S. funds, because that

is the only way you can do it in international organizations, or the vote—

Mr. GONZALEZ. Excuse me.

Mr. HABIB. Or the vote, which is not binding.

Mr. GONZALEZ. If you may pardon an interruption, I know you have not had a full chance to comment or answer. But I must take issue right there because we do have an extraordinarily heavily weighted vote, at least up to now—maybe after these amendments we will not—that is my feeling, but at least up to now it would be, if it were a priority matter, it would be incumbent upon our representative to raise the issue because there is no question that the Communists are trying to join at least the Southeast Asia Communists.

I might say by way of parenthesis that if we are going to start talking about will somebody negotiate if he is called names—we have been called criminals, gangsters, and yet the President and his personal emissary, the Secretary, later have negotiated, despite that kind of name calling.

Certainly if Reagan or anybody else calls the Communists pirates under these circumstances, he possibly would have more justifiable reason for using that descriptive phrase than I think the Communists have for calling us gangsters and criminals, which, incidentally, they define as their judgment in describing the treatment afforded our prisoners-of-war, not as prisoners-of-war but as criminals, and we have never come out of that shadow. We have done nothing to defend even the honor of the men who loyally served their country and either died or were imprisoned or have not been accounted for.

So I think we then have to march in unison. It is not a question then of whether you can have a smart trick in diplomacy, keep the Congress in ignorance. It is a question of whether we are going to march together, the executive branch, the legislative branch, the judiciary, and every American. This is the kind of issue I think we confront.

Certainly the Secretary, particularly our appointive officer representing us on the Bank Board, can raise the issue and say, gentlemen, we are not going to even discuss whether you can assume the old position of South Vietnam in the Asian Development Bank, or the Cambodian situation in the case of the International Monetary Fund.

Certainly, I think, Mr. Secretary, you must agree this is an issue that could be raised.

Mr. HABIB. There is no question it could be. The very fact that, as you are aware, it has been considered and discussed within the Government indicates that.

Now, whether or not one department of Government is subservient to another is not the way I would describe it. I would describe it as a matter in which you would consider all of the effects of a move that you might take, and then you decide which one is in your greatest interest. Now in certain cases, for example, Congressman McCloskey said about the trade embargo—in certain cases we have refused to do certain things with respect to North Vietnam or South Vietnam because we have not been satisfied with the manner in which they have been behaving.

In the international monetary organizations which you referred to specifically, I would say there you have a more complicated matter. In

the first place, we do not expect other members would support the position which we might take, if we took that dramatic a position.

Mr. GONZALEZ. But they have been supportive—

Mr. HABIB. I know that is not the only reason that you do not state a position, because it is not supported. Let me finish my thought.

Moreover, we do not want to unnecessarily encourage other members to attach political conditions on the use of funds elsewhere, because obviously that can turn back on you.

Finally, and more importantly, I would say what we are trying to do, and it is probably more effective, is to make sure that in these international organizations the Vietnamese have to be fully willing and capable of assuming the obligations of membership and complying with the standard procedures before they can use the facilities of those organizations.

Mr. GONZALEZ. All right.

Mr. HABIB. I do not want to get into too descriptive a meaning of that. But from the nodding of your head I can see you understand what I mean.

I can assure you that that has been exactly the way we intend to go along. That includes their allowing, if they are going to participate in such organizations, the normal monitoring activities that are conducted by such organizations, that they assume all the obligations of membership. Otherwise, we will argue and we have argued and will continue to argue, that they have no right to the benefits of such organizations.

The CHAIRMAN. If there is no objection, the Chair would like to ask one or two questions and make some comments. I have given the members first shot at the Secretary.

Mr. Secretary, Mr. Gonzalez mentioned we were shown the letter in Hanoi. Just for the record, the Vietnamese did not show us the letter. We asked for it.

Mr. GONZALEZ. They did not trust you either.

Mr. HABIB. No; they misinterpreted it for you, though.

The CHAIRMAN. They did not show it to us, nor have they released it so far as I know.

Mr. HABIB. They argued it was a commitment. I can assure you it was not a commitment.

They also made it appear as though it was irrespective of congressional action. You know that could not be so.

The CHAIRMAN. I know, myself, action would have to be taken on \$3.25 billion.

Mr. HABIB. And that was made clear.

The CHAIRMAN. Congress would have to be involved.

Mr. HABIB. Yes.

The CHAIRMAN. We appreciate Mr. Moncrieff Spear, who has been liaison for the State Department, working through Frank Sieverts, your Deputy Coordinator for Humanitarian Affairs, working with our committee. He has been a lot of help to us. We can move much faster by having someone in direct contact.

Thank you for doing that with Mr. Spear. It helped a great deal.

We have some questions that have not been answered because they have not been brought up by committee members. Could we submit

those questions to you? The ones you have answered, you can ignore them and answer the other questions.

I agree with what has been said by other members on this committee that when this committee does go out of existence that we as individuals and I, myself, will continue to follow up on the missing in action. It has been suggested it would have to be up to the House of Representatives and to the Speaker whether the work we have done be turned over to the International Relations Committee; we have talked to Chairman Morgan and Mr. Zablocki. They want to continue this work, they are enthusiastic for it. That would be up to the Speaker and to the House to decide whether this would be turned over. But as you said, it will not quit.

I totally agree with you that I think the heavy responsibility has been on the State Department, but it is more now on the State Department than ever before, now that you have started talks with the North Vietnamese.

You have told us today that you will pursue this area with the Vietnamese in Paris.

That is all I have.

Mr. OTTINGER. One question.

I have no information that there are talks. You suggested that talks are starting. Have there in fact been any talks?

Mr. HABIB. Not in the formal sense. There have been exchanges. There has been talking and written exchanges, but there has not been formal talks in that sense, no. I do not want to mislead the committee.

The CHAIRMAN. Have there been informal talks?

Mr. HABIB. Yes; there has been some discussion.

The CHAIRMAN. We need to know this.

Mr. HABIB. As I said to you, there are ongoing exchanges. I do not want you to believe that those consist only of somebody saying an idle word to someone. But there have been formal written exchanges as well.

As I indicated to the committee earlier, we have considered it sensible and desirable in terms of the objective which we both share that we not discuss this thing widely or openly. I might say that is not simply our opinion.

The CHAIRMAN. Mr. Secretary, you are going to have to move out with these talks. You have to do that.

Mr. HABIB. All right.

The CHAIRMAN. It has been too long.

Mr. GUYER. I just want to say one thing.

Out in Nebraska there is a law which has never been repealed. It says two locomotives coming to an intersection shall both stop and neither shall leave until the other has departed. I want to say here I am not going to be content as a committee member or Member of Congress to be like the guy who said, "I am going to go home, and if my wife does not have dinner ready I will bawl her out, and if it is ready I am not going to touch it."

I am going to do something. I think out of this committee should come at least some options, some recommendations, some actions that we can properly take. We realize that you cannot speak for the United States in your capacity. We do think we owe it not to the families alone but to the men, the men who, if they were standing

here, would want someone to be their advocate to do everything possible in their behalf. We intend to do just that. That is all I have.

Mr. HABIB. Mr. Chairman, could I just say one final word?

Mr. OTTINGER. Mr. Chairman, if I could; the Under Secretary said he is willing to inform the Congress, presumably this committee, as to what actually is going on. I wonder if we could arrange for the Secretary to inform us what is going on in these negotiations in executive session at some future time?

The CHAIRMAN. The Chair will certainly pursue that matter and I will talk to the Under Secretary about it.

Mr. HABIB. Let me just say I would not want to leave the hearing without making it unequivocally clear that there is no one any more concerned or interested than we are in the fate of the men. I personally have spent many years in this, and so have my colleagues. I do not take any second place to anybody in my concern as to the fate of these men.

I assured the committee that as far as I am concerned, as far as I speak for the Department, we will not let the matter lie. With that, I want to thank the committee for your courtesies shown me.

The CHAIRMAN. I believe exactly what you have said, Mr. Habib. You have worked very closely with the chairman. I appreciate your testifying here today.

The committee now stands adjourned.

[Whereupon, at 12:22 p.m., the committee adjourned.]

HOUSE SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

TUESDAY, SEPTEMBER 21, 1976

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON
MISSING PERSONS IN SOUTHEAST ASIA,
Washington, D.C.

The select committee met, pursuant to notice, at 9 a.m., in room 2212, Rayburn House Office Building, Hon. Henry B. Gonzalez (acting chairman) presiding.

Present: Representatives Gonzalez, Moakley, Ottinger, Lloyd, Gilman, and Guyer.

Also present: J. Angus MacDonald, staff director; Dr. Henry J. Kenny, Dr. Job L. Dittberner, Shirley Fulp, and John Burke, professional staff assistants.

Mr. GONZALEZ. The select committee will please come to order.

Chairman Montgomery has been present at every hearing and every executive session conducted by the select committee. Unfortunately, there was a death in his family, and Mr. Montgomery had to return to Mississippi last night in order to attend a funeral today. He asked that I chair this important hearing for him and that I express his regrets to our witness and to the other members of the select committee.

I extended to him the condolences of the members. Mr. Montgomery will be back with us tomorrow.

As you know, Ambassador Whitehouse, our Ambassador to Thailand, is in the United States briefly, and he will meet with us informally in Mr. Montgomery's office tomorrow morning at 8:15. I hope that all members will be able to be present and take advantage of the opportunity to talk with the Ambassador and learn firsthand his views and experience in Southeast Asia, particularly as it relates to the POW/MIA issue.

During the past year, the select committee has expended a great deal of effort toward gaining the release of the American civilians who were detained or who chose to stay in Saigon when the North Vietnamese took over that city in April 1975. When the final group of 50 Americans was released last August, the select committee justifiably took some credit for their return to the United States.

Our interest in these Americans was twofold. First, we were concerned about their personal welfare and the welfare of their families. Second, we wanted to learn if they had turned up any information on our MIA's. So as Americans came out of Saigon, we got in contact with them and asked them questions.

Our witness today, Mr. Richard M. Mielke, was one of those who came out of Saigon last August. Mr. Mielke had a wide range of experiences in Indochina, beginning with special forces duty in Laos and Vietnam in the late 1960's and early 1970's. In 1965 he retired from the Army. Mr. Mielke chose to stay in Vietnam for the next 10 years, serving with the Agency for International Development, then as a civilian counterinsurgency advisor, then with the revolutionary cadre.

In 1973 he joined the plans and operations division of the Defense Attaché Office for military regions 2 and 3 and worked with the Joint Casualty Resolution Center on three crash site investigations.

In late 1973, Mr. Mielke became the VIVA (Voices in Vital America) representative in Vietnam and served in that capacity until he left Saigon. Mr. Mielke has a Vietnamese wife who, I understand, has been very helpful to him in his work.

Mr. Mielke, we wish to thank you very much for being here today. We have heard of your work through Betty Miller and Carol Bates and we are most interested in your testimony, particularly as it bears on the MIA issue.

You may proceed with your testimony and may I add that we expect every single member but one, and, of course, Chairman Montgomery to be present this morning.

I feel we ought to get going so that we can have the record built up, and as the members come in and when you have completed your testimony, I am sure they and I will have some questions. But we are very grateful to you for taking the time and coming to be here with us this morning.

You may proceed as you wish. You may have a prepared written statement you may wish to offer for the record intact, you may wish to summarize it or you may wish to proceed informally in your own way. You are free to do so.

STATEMENT OF RICHARD M. MIELKE

Mr. MIELKE. Thank you, Mr. Chairman.

First I would like to begin with my association with the Joint Casualty Resolution Center which began on March 4, 1973, and I resigned effective July 19, 1973.

During that 4-month period I was assigned to the Defense Attaché Office of the U.S. Embassy in Saigon, South Vietnam.

I was the desk officer for the special operations section.

My requirement was to plan and to assist in the execution of sterilization of crash and gravesites in military region 2 and military region 3 of South Vietnam.

Early May, 1973, we conducted the first operation, using elements of the Joint Casualty Resolution Center that were flown in from Nakon-Panom, Thailand.

This operation lasted approximately 3 days, which resulted in sterilization of the site. No remains were located.

However, a portion of a jungle boot, portion of a U.S. driver's license that we did not identify as to what State it came from, and a Gruen wristwatch, and this information was turned over to JCRC for correlation with perhaps other available information concerning that crash site.

June of 1973, while reconnoitering a possible crash site with the permission of Morris M. McDaniel, Khanh Hoa Province, senior advisor, military region 2, I conducted a ground search with three Montagnards. This was on June 10, 1973.

This operation had to be conducted on the ground due to the triple canopy within the area, we had flown over the area about 4 hours that day, unable to locate the crash site by air.

After approximately 3 hours on the ground we located the crash site.

I had a Polaroid camera and I photographed remnants of the aircraft, and the four of us, the three Montagnards and myself swept the area approximately 1 kilometer in diameter, unable to locate any other portions of the aircraft or any human remains.

We went to a prearranged pickup point and were extracted by Air America helicopter and returned to Nha Trang.

Later in the month we conducted a recovery operation on the beach at Tuy Hoa, Phu Yen Province, military region 2.

Three and one-half days after we initiated the operation and by moving 27,000 square meters of sand, we located the remains which were later identified as an American this is to my knowledge.

All of the correlation and previous information bore out that the remains located were the remains of an American who had been killed on December 10, 1965.

In July of 1973 I planned the recovery operation that was conducted in Khanh Hoa Province from July 3 through July 10. This operation lasted longer than expected due to inclement weather in the area. We had to walk in, "we" meaning I did not go to the crash site per se. I planned the operation, we sent in elements of JCRC who had to walk in approximately 3 to 4 days. We could not cut a landing zone in the area because of the triple canopy.

After we had them extracted on day 10, we what I refer to as "maxed the site." We sterilized the site, and extracted seven remains, complete remains, from the crash site.

That was on July 10.

The 11th of July I returned to my office in Saigon, and there I executed my after-action report and I myself went to personnel, got the necessary papers, typed up my resignation and resigned from civil service which was effective July 19.

My resignation reads that I resigned for "personal reasons." If at any time during this hearing anyone desires to ask me what those reasons were, I will be glad to so state.

Approximately 1 month later, August 15, 1973, to be exact, I attended a special forces decade quarterly meeting in Saigon. At that time I met Mrs. Gloria W. Coppin, who was then the national chairman of the VIVA, Voices in Vital America.

After she gave a presentation I approached her and offered my services to VIVA as a nonpaid volunteer, which she accepted.

I continued in the capacity of the Director for Asian Affairs, VIVA, Voices in Vital America, until my repatriation on August 1, 1976.

During that 3-year period of time I made various trips to Laos, Cambodia, and throughout the south of Vietnam to assist U.S. Gov-

ernment agencies in resolving the status of those American personnel still unaccounted for from the Vietnam era.

In December of 1973 my sources informed me of a positive siting of U.S. personnel in Chau Doc Province, military region 4. This siting was on December 21, and December 22. By the time elements were placed into the area, U.S. indigenous and ARVN—Army of the Republic of Vietnam—the route that was used was sterilized by either the Vietcong or Khmer Rouge in the area, they, or course, being the Cambodian Communist forces.

Mr. GONZALEZ. Excuse me for interrupting you at this point. Would you mind explaining the meaning of that phrase "sterilized"?

Mr. MIELKE. Yes, sir. Sterilization of a site means the absolute end result of entering either a crash site or a grave site, obtaining every available bit of information that may present itself at the site. If it is an air site, we will take remnants of the aircraft back with us, or bring in a crash site investigator who is highly skilled in properly identifying remnants of the aircraft that would be impossible to extract.

Mr. GONZALEZ. Thank you.

Mr. MIELKE. Yes, sir. So what my wife and I had done during the period of August 15 through 30 April, 1975, was to interview Vietnamese and Cambodians who had either been repatriated or escaped, who may have knowledge of U.S. or foreign personnel held alive.

We had permission from the Vice President of the Republic of Vietnam to conduct these interviews which were taped. Unfortunately, we received no information of any U.S. or foreign personnel that were either in jungle camps with these other personnel, or any grave sites or any crash sites.

I continued to send bimonthly reports to VIVA and I had an understanding with the Defense Intelligence Agency and Defense Attaché Office in Saigon that they would receive identical reports of my findings.

However, VIVA would receive the report first because I was obligated to VIVA.

However, if my findings bore out, possibly there was a live prisoner within the area, this information went to DAO first, and then VIVA received it.

This brings us up to April 30, 1975. I wish to go on record here saying that due to my position in the south of Vietnam that perhaps I and my family had more advanced warning and more opportunity to depart Vietnam prior to the Communist takeover.

My wife and I discussed in detail the pros and cons of staying. We elected to remain, to continue our humanitarian endeavor. We discussed this also with my mother-in-law, my four brothers and four sisters-in-law.

They wanted to stay also.

So, I registered with the new government on May 12, 1975. During that period of time I kept abreast of the changes of the government, the Peoples Revolutionary Government, who were trying to get their feet on the ground, and getting my dump organized, dump meaning all of the information I had available concerning U.S. and foreign personnel still unaccounted for in Southeast Asia.

I destroyed most of my records that pertained to next of kin with the possibility of these being notified. I did not feel that these records should be made available. I did make available names to the PRG and the DRV—the Democratic Republic of North Vietnam.

However, I did not so state their status, merely that they were unaccounted for, and the reason is obvious; if they were reported as dead, then they were relieved of responsibility of accounting for them.

So in June of 1975 I was given permission to submit in writing my proposal for the search, exhumation, and repatriation of U.S. and foreign remains in the south of Vietnam.

This was written up in detail, which was quite similar to the HJCRC concept, with two changes. No U.S. military involvement, and absolutely overt in its entirety.

To date I have never received a letter of reply from either of the governments. I do know that they received my proposals. I was told to send them registered mail, which I did, and that I would be contacted at a later date.

From various sources it was brought to my attention that as the populace moved into the countryside under the government's new economic program that crash and grave sites were being located merely by clearing the land, and by rice patties once again becoming arable.

My sources—I have faith in them—knowing them over a period of 12 or 13 years, and I know their children, I helped deliver some of the children. So I am satisfied that my sources are reliable. And the information they brought me was on the exhumation of remains and they state American remains. How they came about the knowledge of them being American is unknown to me, as I feel they are not qualified to analyze the remains to say Occidental or Oriental.

At that time I sat down and wrote another proposal to Prime Minister Pham Van Dong, Democratic Republic of North Vietnam and Madam Nguyen Thi Bihn, still Minister of Foreign Affairs, PRG.

Chairman Nguyen Huu Tho, who was Chairman of the PRG with the proposal of the exhumation, and correlation of all information that may be with the remains, and proper identification of the aircraft or vehicle or whatever mode of transportation was at the crash or grave site.

This was difficult, I know, because many of the villages had their names changed. Many of the villages were new villages which had not been on the map previously. The people being indigenous, they know their immediate area, they do not know orientation, and my movement was very, very, restricted.

I had to follow two laws which were the curfew, and that I would not leave the Saigon-Gia Dinh area.

So in this proposal that I submitted in writing, in English and properly translated in Vietnamese by my wife, taken to official registered translator of their government, these proposals were submitted.

Also, on the storage of the remains, sources also informed me that remains had been placed in various containers, and were in storage in the Long Binh complex, and in the old mortuary complex of Tan Son Nhut airbase area, approximately 10 to 15 remains was the last count I received.

In addition to this, I would accompany my wife to various local markets. I was more or less the Honda guard while my wife did the shopping, and this was in the early days after the revolution when an American stood out like a sore thumb in the area that I lived in, and my wife overheard on a number of occasions from North Vietnamese women who had come down to begin a new life with family members they had not been with since 1954, and the conversation overheard by my wife was, That's an American, we thought all the Americans were up North.

Now, please keep in mind this is before the Communist bloc journalists and news media personnel came in. It seemed obvious to them by my size, by my hair, and my blue eyes that I was an American versus say a French in the area, by my clothing, I kept my hair neat, I did not wear a beard, and I carried myself with pride.

So, this labeled me as the "ugly American" in the area, which I was very proud to have been.

Also, in addition to these comments from the women in the area who were North Vietnamese, they were critical that I was allowed carte blanche. I had no guard on me, I could come and go as I wanted, on occasion. They also related to one another that there was an American community in North Vietnam, very near the Chinese border, with approximately 200 Americans, males, some had families, and they were not creating any problems for the locals in the area.

They were all farmers, and to supplement their income some were basket weaving, some were making sandals out of our abandoned Firestone, Goodyear, and Silvertown tires, and they seemed to be quite content.

So, I have no reason to disbelieve these stories. They did not tell my wife this directly, it was directed by conversation and observing me. So, I present this to you gentlemen.

And how do I feel about this? Positive, yes, and what condition they are in from my past experiences in the wars I have been in. Perhaps as in all wars, some have elected to remain, some were legitimate prisoners of war, some were legitimate missing in action, some were just disoriented and went the wrong way.

Some may be pilots with highly advanced, sophisticated knowledge that are being detained. Some of the others may be those who were interned and escaped, and in their escape they either killed, harmed, or maimed their guards, and since we were not at war, perhaps they went before a civil court, and received a number of years. I don't know.

I am basing this on my past experience.

The area that was shown me on maps appears to be ideal so that these personnel, if they do exist, can be taken directly into the southern portion of China, either by vehicle or cross country, or by rail.

I received two reports approximately 1 month before my repatriation, a group of approximately 30 Americans living in military region 2, in the Di Linh District of Lam Dong Province. This I do not put much credence in.

I did not have much dealing with the other Americans who were in the Saigon area with me. I did not know them before, and I had very little to do with them after Christmas of last year. So I do not know if they have any information.

To me it's very doubtful, because with the exception of 2 or 3 that came in from the countryside, that were repatriated with me, approximately 26 whom I knew in the Saigon area had no interest, and had no information.

That is, that they passed to me. They knew my program, they knew why I stayed, and knew what I was trying to do.

Now, to regress a little, on December 14, 1975, I received a personal call from Chairman Nguyen Huu Tho's secretary. Unbeknownst to the secretary I taped him. Unfortunately, the cassette did not get out. Or somewhere between Saigon and the various people I sent them to, the cassette was never received. But in the conversation I was asked to re-submit my proposal on the search, exhumation, and repatriation of United States and foreign remains, which I did, which I personally gave to the Secretary the following day.

I was told that my proposal, in addition to the names of those American and foreign personnel in South and North Vietnam would be reviewed by the Democratic Republic of North Vietnam, and the DRV representatives in Paris and our U.S. Embassy representatives in Paris, would be notified and forwarded on to the U.S. Government, with the possibility of negotiations.

During my interrogations at no time was article 8(b) of the Paris agreements discussed, nor was article 21 discussed.

So, gentlemen, that brings me to date, and please feel free to ask questions.

Mr. GONZALEZ. Thank you very much, Mr. Mielke. It's a very impressive narration that you have given us, with no prepared text.

There are two immediate questions. The members, as you can see, are coming in, and as I had indicated to you, in this period of time it's difficult to keep schedules. We are trying to adjourn the 94th Congress, so everything is a little mixed up.

I will try to limit myself to my 5 minutes, and then give an opportunity to the other members of the committee.

First, some of the expressions you use may not be understood by others. Could you explain briefly the meaning of triple canopy?

Mr. MIELKE. Yes, sir. Triple canopy, foliage, vegetation, and jungle growth, is very prominent in the South Central Highlands of South Vietnam.

Example: The July, recovery operation in Khanh Hoa Province, the trees were approximately 6 to 10 feet in diameter, 150 to 180 feet in height. I have known from experiences from 7 months in Khe Sanh with Special Forces that 500- or 750-pound bombs invariably will not penetrate through the second layer of the triple canopy. It starts out with vine, heavy foliage, and then let's say the roof of the vegetation and trees. Hence, the term triple canopy.

Mr. GONZALEZ. Thank you very much. I will ask the question why did you resign?

Mr. MIELKE. Sir, I resigned because of the crash site that I found on June 10. When I got back that afternoon, I wrote up an after-action report, along with six Polaroid photographs of the remnants of this Huey aircraft, a U.S. Army helicopter.

I took my after-action report after signing it into the section chief; his title, a Col. John C. Rogers, Jr., U.S. Army, for his signa-

ture, and then I was to hand-carry it approximately half a block around the hall to the JCRC liaison office, which would be forwarded on to Gen. Robert C. Kingston, who at that time was commander of the JCRC.

They had a flight coming in every afternoon about 3 o'clock, courier flight. I was denied forwarding of my report until the 21st of June. Even today I see no reason why 11 days passed before my written report got around the corner. I did get on the EAC, which is the emergency action console, this is relative to a hotline, telephonic communications, and I contacted the biographical dump at JCRC headquarters and crash site investigators asking them for correlation of the tail number of the aircraft.

There were no records at that time. I was also told I perhaps had copied the wrong number of the aircraft down. When I mentioned I had photos that bore out the numbers, then they accepted my numbers of the aircraft.

So, in addition to withholding of information, and that is what it was all about, I figured, that was our job, to assist the JCRC and our Government in resolving the status, and 11 days to me just continued the possible anxiety of the next of kin not knowing what had happened to their relatives.

In addition, top secret files containing the biography of those individuals who were unaccounted for was left fully exposed in the chief of sections office on two occasions in 1 week, which indigenous personnel in the area had access to these files during off- and on-duty hours.

This was brought out by the marine security guards, who would visit various offices at night and found the office unlocked, the safe unlocked, and they would leave a piece of paper outlined in red on your desk that you had a violation, whatever it might be, a lit cigarette on the rug, in this case, two top secret safes being unlocked by the chief of section, and, of course, this went into the official DAO record, a breach of security.

Professional jealousy between Gen. Robert C. Kingston, Commander of the JCRC and Colonel Rogers, and it appeared that I was in the middle because I was the first civilian that was brought on board with the DAO to work as the desk officer for the JCRC.

The highlight of my resignation was during the recovery operation of July 3-10, 1975. I had to submit in writing all of the requests to the Government of Vietnam. Example, from the center of mass of the crash of grave site, I had to request artillery support within a 25-kilometer radius. I had to request VNAF air strike support to reassist the recovery elements on the ground if they had to abort or extract from the recovery site, to plan for logistics, to submit in writing the request to the four-party joint military team, which, of course, then was PRG, DRV, GVN and the U.S. delegation to the four-party joint military team staffs and to coordinate with the various officials in the area of the crash site, very, very important. To request the popular forces or regional forces to assist us in security, particularly overnight, if our operation was going to last more than 1 day.

To secure and pacify the area so that we may be allowed to operate, not visit the crash site per se, but to provide security.

So, in addition I had to submit a request for the EAC, the emergency action console. This telephone was put in prior to elements going

on the ground to begin the recovery operation. This gave them an added means of security and communications so that they could get me direct at Na Trang, where I set up my headquarters for liaison.

They could also call the Nakon-Panom direct from the crash site. They could also call the defense attaché office in Saigon.

Realizing that the operation was going to take longer than the 3 or 4 days we had originally planned, it was due to inclement weather, I had called Colonel Rogers' deputy, then Lt. Col. Edward Egland, U.S. Army, requesting Ed to initiate a memorandum or if he could do it verbally, to the joint general staff of the Army of the Republic of Vietnam to extend this EAC capability as we are going to be on the ground at least 3 more days.

I found when I returned to Saigon, and I talked to Lieutenant Colonel Egland, that he did not take any action to extend the EAC communications. I asked him why, and his answer was he did not think it was necessary.

I reminded him that I had placed 12 Americans in the crash site area. His attitude was indifferent. The next morning I again asked him in front of Colonel Rogers, and there I got a half-hearted apology, and I reminded him again that two senior field grade officers, allowing 12 Americans to go on the ground with four indigenous, and to deny them this emergency capability, I wanted no part of the special operations section or the defense attaché office.

These are the reasons, gentlemen, these are the reasons I resigned.

Mr. GONZALEZ. Mr. Mielke, one more question and then my time will be up. You stated that in the later months in Saigon, with the remaining Americans that were also present, you had very little contact, they with you, or you with them.

Can you explain why? Ordinarily it would seem to me that fellow Americans under these circumstances would tend to congregate and associate.

Mr. MIELKE. Yes, sir.

Mr. GONZALEZ. What would be the reason, sir?

Mr. MIELKE. All right, sir. On May 4, 1975, my wife and I elected to give our car, our automobile to the International Red Cross Commission, the Swiss delegation, and the reason for this was to deny the PRG of confiscating my automobile.

At that time Mr. Sveal Lampell, who was the liaison officer for the Swiss delegation of the International Red Cross, asked me if I would be the representative for the Americans stuck in Saigon.

I had most of their names, not knowing hardly any of them. I refused on the grounds that this would cause me to perhaps be compromised, as I did not know why most of them were stay-behinds, and that I was representing VIVA, and at that time I could continue in my correlation of the United States and foreign remains.

I was also told that most of the Americans felt that I stayed behind to look out for their welfare until they could depart Vietnam. This bore out the fact, as many of them came to me with verbal threats, I was turned in twice to various government officials as a CIA stay-behind. I suffered physically for this.

Mr. GONZALEZ. In what way, sir?

Mr. MIELKE. Roughing up.

Mr. GONZALEZ. By what?

Mr. MIELKE. By what we call the Thoat-Ly, these are the hoodlums that surfaced after the revolution, these were the hoodlums that did not fulfill their military obligation. Their parents had either paid various government officials to keep them out of the military service, and that the term Thoat-Ly also means those who have dishonored their families or their families had dishonored them. They are just the trash.

They offered their services immediately to the PRG as they knew every alley, every hole, every nook, every cranny, everything, and many of the PRG did not know their way around Saigon, and they were all issued AK-47 rifles, given the Blue and Red arm band, and had a license to kill, and their acute animosity towards Americans, and particularly me, in the area where I lived, they were allowed to initiate the Mutt and Jeff technics, they were the bad guys, and NVA would come in and offer me a cigarette, and say sorry, and allow me to wash up.

Mr. GONZALEZ. To your knowledge, do you know of any Americans who were killed by the Thoat-Ly?

Mr. MIELKE. No, sir, I do not. I do not. Nor do I know of any Americans after the revolution that I had contact with that were ever forced to work, ever had a "P" for prisoner painted on their buttock or their back shirt, or ever under any duress.

One did spend 55 days in Chi Hoa prison for not abiding by the curfew, and he brought it upon himself, I feel. Many of the Americans made it miserable for the other Americans by their attitude and actions, and by their conduct and I can readily understand why most of them were left or stuck.

So, on Christmas of last year, I had quite a few coming out to my house. I was paying quite a few of their bills and when I finally realized that I was paying girl bills and bar bills instead of food bills and housing bills, I stopped it, and if you would talk to any one of them every day in the week, you get a different story of why he was stuck.

So I just put my dwelling off limits to them.

Mr. GONZALEZ. Mr. Mielke, how many Americans would you say now remain in Saigon?

Mr. MIELKE. Adults. I know of one, unless she came out, which was Miss Teresa Ann Reed. She was from the Washington, D.C. area. She could have come out with us. In fact, I overheard a conversation where an SRV, now when I say SRV I mean the Socialist Republic of Vietnam.

SRV representatives told her that on three previous occasions she had requested an exit visa and when it was possible for her to leave, she elected not to leave, and so on July 5 this year when we were all issued our exit visa, she again requested to remain.

She was told at that time by SRV officials that she would have to sign a statement where she elected to remain, as there was a seat available for her on the aircraft leaving on July 9, and that she couldn't come back on July 10, and say I want to leave now.

They were just, as they said, tired of her asking to leave and when it came time to leave she elected not to leave for personal reasons.

It was around Christmastime, whereas the individuals or groups of Americans came out to visit my wife and I. I just told them that they

had the International Red Cross supporting them, most of the Americans were living in the International Red Cross compound.

This was quite good, there they had air-conditioned apartments, they had Butagas stoves, some of them even had maids and cooks, they had carte blanche, follow the curfew, very simple.

Well, after the money exchange on September 21, 1975, many of them were caught with funds that were beyond reason, piasters to convert into the new dong. I realize that some of them had done this as favors to the Vietnamese helping them exchange their money.

The end result was all of the Americans had to move out of the International Red Cross compound, and there they took up various dwellings within the Saigon, Cho-Lon area, the International Red Cross did give them a monthly living allowance which was the equivalent of about \$54.06.

I wrote to the International Red Cross in Geneva and also wrote to VIVA that I felt that the living allowance should be increased as in some cases some of the Americans may suffer aftereffects, healthwise, for perhaps years to come, \$54 is just not enough when your rent is about \$35 a month.

Also I submitted the request for health and comfort items as the International Red Cross did not want anything to do with the Americans. I don't know how many times I was told that you Americans make the problems, you Americans are the headache here. Your influence is gone and this and that.

So, by check-cashing activities, by fornication, by acting as gofers for the PRG, by wearing their armbands, by them wearing remnants of DRV and PRG uniforms, and by them overtly fraternizing with the belligerents, I put my dwelling off limits to all of them. So that is the reason why.

Mr. GONZALEZ. One final request. Would it be possible for you to give the committee a copy of your proposal to the PRG for casualty resolution?

Mr. MIELKE. Yes, sir, I will be very pleased to.

However, I was sterilized when I came out, meaning that I came out with nothing but my driver's license. I did send my manuscript for my book, and all available information, including what I refer to as the order of battle, which will give you the government apparatus of the Socialist Republic of Vietnam as of July 31 this year, the names of the individuals and their official title.

I have this with me now, if you would desire it. It's quite interesting as there are only two South Vietnamese in the new Government, and they are not Communists. So they have no vote. And one is Madam Nguyen-Thi-Binh, who is now the Minister of Higher Education, and Chairman Nguyen-Huu-Tho, who is the Second Vice Chairman of the Socialist Republic of Vietnam, but I did get that out.

I am getting some of my mail out now, no rule of thumb on this, Mr. Chairman. For example, I got a letter from New Jersey in 8 days; I got a letter from California in 142 days, but I assure you and the committee when I do get this information I will pass it along to whatever channels it is desired.

Mr. GONZALEZ. Mr. Gilman?

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Mielke, we have listened to your comments with a great deal of interest. How long did you spend in Vietnam?

Mr. MIELKE. As a civilian, I retired from the Army on November 1, 1965. I went back on December 6, 1965, and with the exception of three or four visits to the United States, I remained in Vietnam until I was repatriated on the first of August this year.

Mr. GILMAN. Had you visited Laos or Cambodia at all during that period of time?

Mr. MIELKE. Yes, sir. My first visit to Laos was I believe in October of 1973 when a source in Laos informed me that the names of the U.S. and foreign personnel who were unaccounted for in Laos would be released, and members of the National League of Families were also there at that time.

Now, unfortunately, the names were never released. I did have various sources in the area and got updates from them, which I put into written reports and submitted to VIVA, plus submitting copies of these reports to DIA and DAO. I again went back to Laos in late 1974 when Emmet Kay was supposed to be released.

I got to know Ms. Kay quite well, and I had some information from other sources and I had some payments to make to people in the area, and to make a map recon, particularly of the Sam Nena area, the mountainous area in northern Laos that we had been getting various siting reports, supposedly American and/or foreign personnel coming up above the cave complex for various exercises and wood gathering and what have you.

My source, who does not mind being named now, I have given this to Dr. Henry, and we are trying to locate this American who is somewhere in Florida now, and he would be a very good source. He had 13 years in there with the public health program, and he did get around more than the average American would get around.

Then I visited Cambodia in 1974, I believe it was, yes, around January or February. I was quite surprised when I was directed to the political military officer under then Ambassador John Gunther Dean. He had just arrived approximately 3 weeks before my visit. He had not been anywhere, he was desk bound, he had no records at all of any of the Americans, including the journalists that we were interested in in Cambodia.

I gave him the information I had, and we agreed that we would exchange any information that wasn't of a secret nature. We would not divulge our sources, and this proved of no value to me because I never heard from the individual again.

What was most interesting was the JCRC did not have a liaison in Cambodia, and I questioned this, because when I looked at the figures that I had, I will be honest, I said to myself, it appears because there is only 65 unaccounted for that no one has an interest.

Now, Laos did have a JCRC representative, and we had two in Saigon, one for South Vietnam and one for North Vietnam. But we did not have one for Cambodia, which I feel we should have had.

Mr. GILMAN. Mr. Mielke, did you ever receive information about any Americans, any sightings of prisoners in Cambodia?

Mr. MIELKE. Yes, sir. McKinley Nolan, who appears to be living on the back of a 2½ ton truck with his family.

Now, you may cross-check this information with American Stephen R. Leopold, who was a prisoner of war in Hanoi, and through prisoners that were sent up, American prisoners sent up through Cambodia and Laos, McKinley Nolan's name was mentioned to Stephen R. Leopold. I sent this information in also in writing. I destroyed Stephen's address, but he has a home address somewhere in Wisconsin. He was on a world tour trying to screw his head on right, so to speak, after a year in Bethesda Naval Hospital.

But only this one by Stephen Leopold. My sources in Cambodia continued to bring up Sean Lesley Flynn and Dana Hansen Stone, the two American journalists, and there I received three various reports as to what happened to them so far as the time of their capture, until either they were taken north, perhaps in this same community complex that I mentioned earlier.

I heard that Flynn had died due to an overdose of drugs, that he had been worked to death, exploited when they found out he was the son of the famous Errol Flynn.

I also wrote a letter to Mr. Walter Cronkite, as I had heard over the Voice of America radio of his continued interest in the journalists, and the American and foreign personnel. That was this year, I believe, March or April, when I wrote VIVA and when I wrote Mr. Cronkite. Whether or not Mr. Cronkite received my letter, I am not aware of.

Mr. GILMAN. What was the date of your information regarding McKinley Nolan?

Mr. MIELKE. I would say mid-1974, sir, and when Mr. Leopold had received the information, I believe he was detained in Hanoi at the time.

Mr. GILMAN. And the date of your information with regard to Flynn and Stone?

Mr. MIELKE. My last trip into Laos, which was March of 1974.

Mr. GILMAN. The information that you received in Laos about some of the men north of Sam Neua around the cave area, I believe you said, north of the cave area, what was the date of that information, what were the specifics of that information?

Mr. MIELKE. This was given to me by Mr. Donald Dugan, my point of contact in Laos; he was the gentleman I mentioned who had 13 years in there. I had known him, so he is F-1 with me, fact 1, very reliable.

This information was given to me by him in 1974, I would say, October of 1973. Again, spot reports in May, June, perhaps July of 1974.

Mr. GILMAN. What was the nature of that information?

Mr. MIELKE. Mr. Dugan, by a VR, visual reconnaissance.

Mr. GILMAN. Yes. What was that information?

Mr. MIELKE. That Americans had been sighted at a road junction adjacent to the Sam Neun complex. Again they appeared to be gathering wood or tilling the land or exercising, as Don says, quote, unquote.

As far as how many, he just said a group of. They were right on the border line, if you are familiar with the area. This belongs to them, it has belong to them for almost 15 years. It is hard-core Pathet-Lao country.

Mr. GILMAN. Did they indicate how many Americans?

Mr. MIELKE. No, I cannot, sir—as I say, he said a group. His estimation of a group I am not aware of.

Mr. GILMAN. That was subsequent to the POW release?

Mr. MIELKE. This was 1974, yes, about May, June, July, the last spot reports I received from Don.

Mr. GILMAN. While you were in Vietnam, you stated you had received information about Americans being up north near the border.

Mr. MIELKE. Yes.

Mr. GILMAN. When was the last report that you had received with regard to the Americans being up north near the border?

Mr. MIELKE. My wife had overheard these. I received reports direct of remains being exhumed, but of the possibility of Americans being detained or living in a community up north, back 2 months now, I would say 5 to 6 months ago, about March of this year I believe my wife stated—8 months, anywhere from 8 months after the Communist takeover up to that period of time, then it got less and less as more Communist bloc journalists came in from Bulgaria, Czechoslovakia, East Germany, Romania, and Russia. It looked like East Germany and Russia. Most of them brought their families with them.

Mr. GILMAN. When was the last report that you received with regard to these Americans?

Mr. MIELKE. I would say mid-July of this year.

Mr. GILMAN. Do you have reason to believe that the reports you have received on Cambodia, Laos, and Vietnam were of substance?

Mr. MIELKE. Yes, sir, I do.

Mr. GILMAN. And reliable?

Mr. MIELKE. Yes, sir, I do, not only a gut feeling but my sources are very reliable. They cannot become compromised nor can I be. This, coupled with my long-term association with them, and these are what we refer to in Cambodia as the Khmer Khom, they are the non-Communists; the Khmer Rouge of course are the Communist forces.

Mr. GILMAN. Did you pass this information on to our DIA people?

Mr. MIELKE. This information was passed on verbally and in writing to Mr. Anthony L. Suarez, Chief of the Capitol Liaison Division, Intelligence Branch of DAO, who in turn passed this information into DIA.

Mr. GILMAN. Did you receive any information with regard to what sort of a followup was made on this information?

Mr. MIELKE. No, sir, other than it was passed on and that DIA made an unannounced visit to the Intelligence Branch of DAO, and I could not be located as they wanted to talk to me.

Mr. Suarez related to me after they left that information that I had been passing on to them correlated with information they had and I was considered a very reliable accurate source of information to them.

Mr. GILMAN. Has DIA conversed with you at all?

Mr. MIELKE. No, sir, not since I have been repatriated. No organization has contacted me other than the select committee here, and numerous Vietnamese organizations which I will have nothing to do with.

Mr. GILMAN. Did DIA contact you after you made your report to Suarez?

Mr. MIELKE. No, sir.

Mr. GILMAN. In other words, after your report to Suarez, that was the last official communication between you and our Government?

Mr. MIELKE. Yes, sir.

Mr. GILMAN. And what was the date of that communication?

Mr. MIELKE. This Chou Duc sighting report, as I say, was December of 1973.

I talked again to Tony on January 19, 1974.

Mr. GILMAN. That is Tony Suarez?

Mr. MIELKE. Yes, sir, Tony Suarez. And he told me that no action had been taken because of the Christmas holidays, no action was taken until January 9, 1974, concerning the sighting reports that I had reported on December 21 and 22.

They did send some indigenous agents into the area, very ridiculous, stovepipe pants, needle-nose shoes, long hair; they were not indigenous to the area. People would not talk to them. They got nothing, all they did was generate movement from one area to another and draw per diem.

The ARVN Rangers were very good in the area at that time. My sources tell me that the jungle camp in the Seven Mountains area of Chou Duc Province, that they had to move the PW's back into Cambodia and they crossed the Vinh Tay Canal along the famous infiltration-exfiltration routes of Alpha-1 and Bravo-1. That is what I was told, sir.

Mr. GILMAN. Why do you think the Vietnamese would be holding some Americans up near the border?

Mr. MIELKE. As I stated earlier, sir, perhaps because of their highly sophisticated, advanced knowledge of communications, aircraft, and again, this is a gut feeling and this is from a reliable source, that some of the prisoners have been maimed, crippled. The SRV does not want the free world to see these people coming out as vegetables.

Now the question comes up and I have been asked this on numerous occasions, why do they not just kill them? That I cannot answer. But the possibility does exist that some may still be alive.

Mr. GILMAN. Thank you, Mr. Mielke.

Thank you, Mr. Chairman.

Mr. GONZALEZ. Thank you, Mr. Gilman.

Mr. Moakley?

Mr. MOAKLEY. Mr. Mielke, I am very interested in the conversations your wife had with the women in the marketplace relative to the apparent whereabouts of Americans in the northern part. Can you expound on that a little bit more?

Mr. MIELKE. Yes, sir. My wife did not converse with the North Vietnamese women per se; she overheard these conversations as she was shopping in the market. It is easy even for me to distinguish a North Vietnamese from a South Vietnamese, and the dialect, also, for my wife. I do not speak or understand Vietnamese to that degree. But these were conversations that my wife overheard which were related to me, obviously, as I was the only one in the area.

Again, they must be American, we thought they were all up north. They said, maybe come down for some reason, maybe he is down here for some purpose and he might be from that group of approximately 200 that are up north.

As I say, at that time there were no Communist bloc journalists in the area. They had not come in yet. There were only two types of Caucasians, Americans or French. If there were any others, I did not

see them. I did get around quite a bit in the Saigon-Cho Lon area, but it seemed every time I did, something would happen. The PRG/DRV would find a bishop in the church making phony money or somebody would blow up the Turtle Fountain at Chin-Si Circle. That is when they would come back on me, plus, as I say, what the other Americans said about me being a CIA sleeper.

To give you an example, one threatened me on downtown Tu Do Street that if I did not continue to support him, he would turn me in as a CIA sleeper. This was overheard by NVA, and I had thrown this individual through a plate-glass window; then the NVA took me in. So we got that kind of trash that we allow back into the United States.

As I say again, sir, Congressman Moakley, there was no personal discussion between my wife and these North Vietnamese shoppers.

Mr. MOAKLEY. As I gather, and I might be incorrect, did she overhear this type of conversation on more than one occasion?

Mr. MIELKE. Yes, sir, 15 or 20, a good "guesstimate," 15 or 20 times at various marketplaces, in what we call the Old Gia-Dinh area. This is about 2 to 3 miles north of Saigon proper, between the Tan Son Nhut Air Base complex and let's say downtown Saigon or Cho-Lon, which is the Chinese colony of Saigon. It got less and less, as more Caucasians—Communist bloc—entered the areas.

Mr. MOAKLEY. Is it not strange that just a mere woman in a marketplace would have knowledge of the whereabouts of groups of Americans where our own sophisticated intelligence-gathering operation does not have this intelligence?

Mr. MIELKE. Yes, sir, I agree with you.

Mr. MOAKLEY. Did you go further, to higher-ups, to seek out more information?

Mr. MIELKE. Yes, sir.

In addition, I wrote to VIVA concerning this on numerous occasions. I asked my sources to check it out. Unfortunately, I had three reliable sources go by bus, which you can go by bus now from Saigon to Hanoi in about 3 days. For reasons unknown, they did not return. They went up there for that specific reason. They were willing to go and we had made an in-depth map reconnaissance of the area; they had been in the north before and, as I say, for this specific purpose.

I did not approach any SRV official concerning this. I was in no position to. I had to be very careful of expulsion. This was what would have ruined me as far as possibly going back into Vietnam, which I am hopeful of in the near future.

Mr. MOAKLEY. As a person who spent a lot of time in that area, do you think it would be possible for say 100 or so Americans to be contained in a certain area without this information getting out into the mainstream?

Mr. MIELKE. Yes; I base this on, one, the conversations that my wife overheard. There was no reason for them to make up this story, so to speak, and associate me with my wife. It was just like common knowledge, like women shopping, just discussing, you know, by various sources, like I say, that had been repeatedly mentioned to me.

Again in April of this year when I received a warning order that perhaps when the non-Communist journalists may have to relocate in Hanoi, I was told that perhaps I would also have to relocate in

Hanoi; effective as of May of this year all communications for journalists getting their stories out or up to Hanoi for editing would be denied.

So at that time I sent a cable to VIVA saying that "It is possible the DRV will request me relocate Hanoi. I am willing to go. Wife and daughter health dictates return to Los Angeles. Please advise State Department. Funds needed. Mike Mielke."

I never received a clarification answer on that. But there I was willing to go, because even though we were told, you are going to be restricted to Hanoi proper, I thought it might be possible; in other words, any avenue I felt while I was there, why not exhaust it, as long as I did not overstep their rules.

I always followed article 10 of their constitution, which I am quite sure you are all familiar with, and it specifically states "and Americans," not just foreigners may conduct legal and honest business.

Mr. MOAKLEY. Mr. Mielke, some part of your testimony stated your wife saw an American on TV.

Mr. MIELKE. Yes, sir.

Mr. MOAKLEY. Did you see this American also?

Mr. MIELKE. No, sir. I have been saying 4 months ago, now it would be 5½ months ago, on three occasions my wife has observed the same Caucasian on television, television usually comes on at about 7 o'clock in the evening, off at 11.

Mr. MOAKLEY. Was this the same setting or in different settings?

Mr. MIELKE. Yes, same setting; it appeared to be on film, narrated in Vietnamese. I was in the complex; unfortunately, each time my wife would get me and I got to the screen I did not personally see this individual. He was in indigenous clothing, appeared to have a large towel around his neck, such as we refer to as a sweat cloth. This was on black and white film. He appeared to be young, very healthy, he did not appear to be under any duress.

I think my wife is highly qualified in saying this, by all the hundreds she interviewed, people that just come out from confinement.

Since our return, I believe it was last week, my wife went through the DIA photo file and some additional photos. Unfortunately, she could only identify an American from the upper lip to the hairline. She went through all of it. That is the best she could come up with.

Of course, we know most of these photos are graduation photos, full uniform, 10 or 15 years old. It is pretty hard to correlate what she saw on TV to the possibility of the make on this individual.

Mr. MOAKLEY. Was this the same film clip she saw on three separate occasions?

Mr. MIELKE. Yes, same background. I extensively asked my wife, same man in the background, sitting in the same location, same dress, same expression. I asked did she notice any tattoos, scars, mannerisms, was he bald? She knows how to work this correlation, but nothing of significance that could help identify this individual other than he was a Caucasian. It could very well be a Frenchman; they said American. He could very well be a Bulgarian in the area. They expounded on an American, Army, U.S. Army.

Supposedly he came to Vietnam and saw the American imperialist government, as they relayed on the film, and the killing and maiming

of the civilian populace and he offered his services to the National Liberation Front.

Mr. MOAKLEY. Did he have a speaking part?

Mr. MIELKE. This was all Vietnamese narration, no verbiage from him, nothing verbal.

Mr. MOAKLEY. Thank you very much.

Mr. MIELKE. You are welcome.

Mr. GONZALEZ. Are you through?

Mr. MOAKLEY. Yes.

Mr. GONZALEZ. Mr. Guyer.

Mr. GUYER. Thank you.

I want to explain to our witness, in my own case we have four committees meeting at the same time. The Disabled American Veterans are in Veterans' Affairs this morning, the Greek Delegation is in International Relations, and Mr. Wolff is conducting his Narcotic Control Committee right now, and we are here.

But at any rate, you have given the most vital and probably promising testimony of anyone that I recall having heard. We have only had I think two people who believed there were living Americans. I may be wrong, it may be three, but very very few have given much promise.

I am wondering if perhaps the peculiarity of your ability to have mobility and the latitude of movement might account for the fact you had more observatory reports than other witnesses. Would you say that that is pretty accurate?

Mr. MIELKE. Do you mean since April 1975, or prior?

Mr. GUYER. During much of the period of your official and unofficial time, it appears to me that you have had widespread latitude, coming and going not being detained a great deal, from what you have reported here.

Mr. MIELKE. Well, prior to the Communist takeover I had carte blanche within the 44 provinces of South Vietnam and the offshore islands. I had a letter from the vice president; also, my wife had a letter of introduction to each province chief. This was in Vietnamese. We hand-carried this with us.

Our only requirement was report directly to the province chief headquarters with this letter of introduction, explaining my charter as written by the board of directors for VIVA. They offered me any service that I may need. They allowed me in any of their areas, and my wife, for any period of time.

Mr. GUYER. How long ago were you in the area?

Mr. MIELKE. February 1975.

Mr. GUYER. Do you speak any Vietnamese at all?

Mr. MIELKE. Just the greetings. No, I am not able to carry on a conversation, to answer your question, sir. In addition to that, my wife told me "After the revolution you are the Ugly American. So now is the time to keep your mouth shut and eyes and ears open."

Mr. GUYER. I believe you uncovered seven remains back in July of 1973. How long had that crash site existed? In other words, do they not cover pretty rapidly?

Mr. MIELKE. Don't they what?

Mr. GUYER. Cover pretty rapidly on account of the growth.

Mr. MIELKE. Yes.

Mr. GUYER. If you do not get to them pretty fast, they are not visible after a while?

Mr. MIELKE. That is correct, sir.

This particular site where we got the seven remains, Montagnards in the area, going from point A to point B just happened to stumble over them. We had been working on this. This was acquisition No. 15-10. We use numbers in lieu of names of individuals concerned with the crash site, which from all available information put the crash site about 15 kilometers from the last known location or the crash site location. And from all the information we got full skeletal remains, the various serial numbers of the aircraft, numbers from the weapons, pieces of clothing, nameplates, the pilot's helmet, we were able to come up with positive identification. But this happens on many occasions. This is what is happening now as far as finding gravesites and crash-sites by people going into new economic areas, where perhaps they never trod before.

Mr. GUYER. What happens to the remains that the PRG told us about back in 1973, there were 40 remains of Americans that they recovered, but we never got them?

Mr. MIELKE. Yes, sir.

Mr. GUYER. What happened there?

Mr. MIELKE. To my knowledge, all of the remains were in Hanoi. If I recall correctly, approximately 20-some of that 40 were repatriated. Whether or not the three airmen that came out, that were repatriated this year, were part of those I am not aware.

Mr. GUYER. What are the most reliable symbols; would they be dog tags, insignia, identifying command, membership; what would be the reliable symbols?

As I understand, remains do not last very long in that climate.

Mr. MIELKE. To begin with, on the remains, if you have the full skull, you could make a positive identification, using all existing collating information. Without the full skull, perhaps at best you can come up with the sex, the age, the height, the weight, Oriental. Without the full skull identifying data would be the name in the unit morning report—location, jungle boot, dog tags, nameplates—various pieces of clothing.

This particular site in July was very odd. Obviously it had been visited by others before. This is what I was told. No ammunition was found at the crash site. Most of the weapons had been cannibalized. In other words, upon impact perhaps the machinegun was strewn over let's say a 10-meter area, but parts of the weapons were missing. There were no billfolds found, no watches found, no money found, no religious medals found. That is just odd, on seven remains which have been lying there since 1967.

Mr. GUYER. I imagine there were predators there as soon as it happened, and they took those things.

Mr. MIELKE. Yes, sir, very possible.

Mr. GUYER. Just two questions.

What would be your educated guess of the number of Americans living in all three countries if you would make such a guess? I mean whether being held, detained, brainwashed, are there of their own volition or other reason; would you make a guess as to how many Americans there might be?

Mr. MIELKE. I have to put this in this category, sir, American and foreign personnel.

Mr. GUYER. And foreign?

Mr. MIELKE. And foreign personnel.

Cambodia I give a zero. I do not believe they were all killed. I believe they were all moved, consolidated.

Laos, I would say 20 to 30 perhaps in the Sam Neua area. This figure is fairly constant and comes out of North Vietnam.

Mr. GUYER. How about China?

Mr. MIELKE. China, I have heard nothing, sir. Two in Thailand. I understand their status has been resolved since the Communist takeover.

Mr. GUYER. It is one of their customs to move people around, though?

Mr. MIELKE. Yes, sir. I have talked to many POWs. Mike Bengé, he was taken through Cambodia, Laos—was captured in the South Central Highlands—to disorient them so that they become weakened, they cannot escape, so that they will not become familiar with the area—disoriented. They change guards ever so often, just so they will not build up a friendship with them, will not compromise their captors.

Mr. GUYER. There are a few like myself that somehow I believe there are men living because of the value of what they know; for example, they can be experts in demolition, they may know site location that they would like to know about, they may know technology which they would likely be detained for.

Are you going to make yourself available to speak to some of the members of the League of Families who might have some very personal vital questions they would like to ask you?

Mr. MIELKE. Yes, sir. A week ago Saturday I was invited to talk to the board of directors of the League of Families here in Washington. I spent about 5 hours with them. I did not talk to them on an individual basis, as we—my presentation was to the board. I requested, and it was approved, that we would talk very similar to the way we are talking here, not on individual cases.

However, I would avail myself, if an individual wanted to discuss their particular case.

Mr. GUYER. I think it is very productive because, and I do not mean to just dwell on this, but you have an exponential depth that we have not found in very many people, and versatility of understanding many, many parts of the country and the people and locations.

I noted you had mentioned the name of Emmett Kay. I do not know whether you heard the name of Craig Paul from Ohio. It is possible some of these names would come to you or surface in conversation. I would think it would be very productive if your schedule is such that you could meet with people, particularly the folks I have described.

Mr. MIELKE. Yes, sir.

Mr. GUYER. Thank you, Mr. Chairman.

Mr. GONZALEZ. Thank you.

I have a couple of questions.

A while ago you said "Numerous Vietnam organizations with which I will have nothing to do with."

Mr. MIELKE. Yes, sir.

Mr. GONZALEZ. Could you elaborate on that, sir?

Mr. MIELKE. Yes, sir.

Particularly since I have been in the Washington area, the past week, I have talked to Americans who are married to Vietnamese nationals, I have talked to Vietnamese male and female; naturally, they want to know what does Vietnam look like today. I go on record, and I take it very personally, that when I am asked I will be very candid in my answer or I will not answer. And the general opinion is that perhaps I may be sympathetic with the Socialist Republic of Vietnam by what I will tell various people, or answer their questions.

Example: Blood baths. I do not believe it, I did not see any. Dying like flies in the countryside, quote, Newsweek magazine of August 16, Fred Gulden. Fred is unqualified to make that statement, particularly when he had to, be handcarried through a baggage check by Richard White, the United Nations representative still in Vietnam.

By "There are no jobs"; there are more jobs than there are people. But people just do not want to work. Example: Those that were in banking, making 100,000, 200,000 piasters under the old government; they can work in a bank today, but subsidized rations and no social class, maybe they are only making 10,000 today, they do not want to work.

I am amazed at the SRV for their patience with these people. So when I tell these people that there is plenty of food for everybody, that there was no blood bath to my knowledge, that GI souvenir babies are not being exploited, that those who associated with Americans, either professionally or socially, are not being exploited; then they tell me that is not what we heard, that is not what our relatives who stayed behind are writing us about.

So that, plus my feeling of acute animosity toward those Vietnamese military, professional and intellectuals who ran from their country, I do not want any association with them whatsoever, nor does my wife. I am not putting them all in one bag, but I am aware through my sources that there were approximately 10,000 Vietnamese males, these were military, professional and intellectuals, who just jumped on any available aircraft for an excuse to leave their country. And in my opinion, they would not have been harmed.

I do know of seven hoodlums that were killed by firing squads. I was invited to attend. I refused to attend. But we saw the pictures in the newspapers. And it was the people's court, very well conducted.

The way the people said, quote unquote, they cannot buy their way out this time, they are going to pay for what they have done over the years, and they were shot by a firing squad.

Anything from rape—years ago, this one particular individual about 20, 25 years old, he had stolen a watch and the people's court, as the people looked at him, they walked up to him, they recognized him as committing serious offenses in the past that he had been able to pay various officials to refrain from going to jail. One woman recognized him as the man who raped her daughter, and the daughter was still in Bien Hoa, which is a sanitarium in the south of Vietnam. So the court elected that he be shot, which he was.

But this is the reason why I do not want any association with the Vietnamese organizations. My wife, her last week, brought everything she could possibly buy in the Washington area concerning Vietnamese publications. And we have been contacted by various Vietnamese organizations. We have received no verbal threats, but we still elect not to talk to any Vietnamese organizations. I do not think personally that I could retain my composure if I talked to them.

Mr. GONZALEZ. And you say that no organization, DIA or otherwise, has contacted you since your return?

Mr. MIELKE. That is correct, sir. News media, yes, but no organization has contacted me, other than the select committee.

Mr. GUYER. What are your plans for your career now; do you have any?

Mr. MIELKE. Well, I hope to leave for Rhode Island next week to meet with some publishers concerning the book that I have written and that they desire to publish—they hit me with something I was not prepared for. They want to go back to my childhood, and I have some skeletons I am going to have to bring up—but approximately 2 weeks there.

Then I am going to have to find a job because my E-7 retirement pay is not going to buy the rice and fish that we consume each month. So right now, day-by-day we are still living out of a suitcase. I am seeking employment to supplement my income at this time. But I will be in the States at least, I hope, until Thanksgiving holidays of this year.

Mr. GONZALEZ. Just one thing: Since you had stated that in the event you had been relocated in Hanoi that you would have accepted that, and you also made a voluntary decision to stay, why did you make the decision to return this year?

Mr. MIELKE. Because I feel that VIVA, Voices in Vital America, has been recognized by the Socialist Republic of Vietnam. The SRV knows in detail the mission of VIVA, as pertains to resolving the status of those Americans and foreigners still unaccounted for.

They have talked to me at length. Some of it has been quite friendly. At other times when they bring up the seat in the U.N., of course, they get a little carried away with themselves.

I feel the longer I stay away, the colder the issue is going to become as far as the humanitarian aspect.

Again I say, article 21 was never presented to me. I was told by KGB/DRV, KGB of course is the Russian CIA, the DRV, CIA counterpart; these people are good. They knew when I went to the McKee City, N.J., school in 1938. We had at it. They expounded on my humanitarianism, they could not understand why an American works for no salary. This was hard to get across to them, always in a nonpaid status.

We finally got it across that I lived on my military retirement pay and I did receive on occasion funding from VIVA, office expense money. But I feel the longer I stay away, that they will begin—they mention the SRV will begin to feel that the American public and the American Government will just clear the board and forget the issue. This is my personal opinion.

Mr. GUYER. Mr. Chairman, before I leave—

Mr. GONZALEZ. Surely.

Mr. GUYER. What would be your recommendation that we as a country should do now to get final accounting and some action?

Do you have any specific recommendation as to what we need to do?

Mr. MIELKE. Yes, sir. And I am not trying to feather my own nest. Allow me to go back.

Now in my proposal, I specifically left out any other American. I do not feel it is necessary. We have trained the South Vietnamese in all aspects of recovery operation.

Now when you come to identifying the remains in-country, I do not believe that they have qualified personnel. They might have to bring in Communist bloc countries to do this. However, if we could transfer the remains to a central identification laboratory, such as Sami San in Thailand had, and there the positive identification be made—we would have to use extreme caution on this, because Prime Minister Khiem, under the Government of Vietnam, revised the search, exhumation, and repatriation of remains in Vietnam-South, and he stated specifically in there that it would be GVN-run and U.S.-funded, for this reason.

Remains were being sent to Sami San for identification. It became very well-known that in exhumation of mass gravesites that all the remains were not American, let's say Occidental. Many of the remains that were not American, but Occidental were not returned to Vietnam, the assumption was they were Vietnamese remains. What happened to them?

Mr. GUYER. I guess I did not pinpoint my question.

What gestures do we have to make, what concessions, to get this full cooperation?

Mr. MIELKE. I would say on the humanitarian basis, again, never was I once presented with article 21. Article 22, yes. Article 8(b) was not presented because I had everything laid out and I did not use the term article 8(b).

Mr. GUYER. Do you think we can do that without giving in to their insistence that we promise the reconstruction, rehabilitation fund, and, No. 2, the U.N. entry, can we get this done without those two factors?

Mr. MIELKE. I still believe if I would be allowed to return by my government—they keep telling me, we will let you come back. I asked for something in writing. I asked for an entry visa. They told me I did not have time to go to Hanoi. I only had 4 days. I did try to pin them down to give me a letter of acceptance back in. They told me this was impossible because of reorganizing their government.

But they did tell me that I would have problems with my own government as far as getting back in, and that they received letters from many Americans requesting visiting the south of Vietnam.

I was told they did write back on a few occasions that they could not guarantee their safety, such as tourists, an MIA mother wanting to visit the last known location of her next of kin in the south.

As we are aware, they are allowing U.S. missionaries—Jane Fonda can get in there, Sterling Hayden, Cora Weiss; why can't Mielke?

Mr. GUYER. Do you think this committee would be welcome?

We have asked to go either November or December; if we do go to Hanoi, what areas of agenda should we discuss that we have not touched on before?

Mr. MIELKE. I would punch towards the humanitarian aspect of the American people, with the humanitarianism of the people of Vietnam, and be absolutely over in it. Obviously you are professional people, you know they are going to know everything about you. Just go in there, present it to them.

Mr. GUYER. But they do want things like seeds, equipment, livestock, what have you; they would welcome that?

Mr. MIELKE. Yes. They have brought in a nine-man Japanese team to reevaluate the hydroelectric plant at Da Lat, which supplies most of the power to Saigon proper, because it is in dire need of maintenance and perhaps spare parts in the very near future.

This Japanese firm, whatever the title is I am not aware of, they did let them in; fertilizer, medical supplies.

Mr. GUYER. They need it badly?

Mr. MIELKE. Absolutely.

Mr. GUYER. They do want to do business in oil?

Mr. MIELKE. Yes. I have been hit on that, I shy away from that. I am more or less a band-aid and aspirin sort of guy myself.

The medicine sent in from Communist bloc countries is either outdated, side effects from consuming, and in many cases it is too potent for the average Vietnamese to take.

I think we ought to keep the drugs very, very simple, not sophisticated such as any of our cyclines and antibiotics because as in every country, they have their own black market. This is going great. They sort of got on the human end of the thing now.

We watched them for 8 months. They have Seiko watches, transistor radios, Western-style clothes; have learned to like girls. Just a "new bunch for lunch," as I call it.

Those items we should propose to them, clothing, medicine particularly, fertilizers, seed, things of that nature, but as far as dollars and cents, I would not give them the sweat off my funky green beret.

I would like to mention, Mr. Chairman, I would like to regress a little bit concerning JCRC activities, if I may.

Mr. GONZALEZ. Fine.

Mr. MIELKE. December of 1973, December 14, to be exact, a recovery operation was conducted approximately 11 kilometers southwest of Saigon in an abandoned pineapple plantation.

Colonel John Farnham,¹ U.S. Air Force, was then the Chief of the Special Operations Section. A GS-13, Marvin C. (Pappy) Shelton, was the desk officer for this particular site, supposedly a crash gravesite.

JCRC elements coordinated all activity with GVN individuals, laid on their air/artillery, logistics. They went in on the 14th. They did not sterilize the site that day. That was a Friday. They returned to Tan Son Nhut, entirely. Popular Forces and Regional Forces in the area provided outlying security against the insertion of mechanical or man-made ambushes, but not on the recovery site because Vietnamese are very inquisitive, did not want the site disturbed.

The next morning the same recovery elements flew directly from Tan Son Nhut into the crash gravesite area. If they would have performed in a professional manner, in accordance with the concept of operations, they would have first gone to district headquarters that the area

is part of, and there waiting at the chopper pad was the deputy district chief with overnight intelligence telling them to abort.

During the course of the night, man-made and mechanical ambushes were inserted in the area. This would have saved the life, I am sure, of Captain Reese from Ohio, an ARVN first lieutenant, and four Americans who were seriously wounded and the loss of one Vietnamese Air Force helicopter. Captain Reese did exactly what he should have done, and he was killed outright. So was the ARVN lieutenant.

Now Lt. Col. Sully Fontaine, U.S. Army, was in the area with Colonel Farnham, after the incident. Lieutenant Colonel Fontaine insisted that the helicopter go down and extract Captain Reese, the ARVN lieutenant, and the four seriously wounded Americans and any other personnel on the ground. Colonel Farnham did not want to extract those people because they had already lost one helicopter. So that ended all JCRC recovery operations per se, because of that incident.

Now, where did I get this information? Anthony L. Suarez.

Now Tony is presently in California. Perhaps I have his address here if you care for it.

Mr. GONZALEZ. We would, if you would make it available to the committee.

Mr. MIELKE. All right, sir.

Mr. GONZALEZ. We would appreciate that.

Mr. MIELKE. That is all I have on that, Mr. Chairman.

Mr. GONZALEZ. What about this former CIA employee, Tucker Gougglemann; did you ever meet him or have you heard anything about his whereabouts?

Mr. MIELKE. Yes, sir.

Due to all my communications being shot out on the morning of April 30, my radios went out, telephone went out, electrical power went out, I was isolated, I elected to take my family into Saigon, to the Caravelle Hotel. First we went on the roof of the Ministry of Foreign Affairs. When the surrender came, it was announced over local radio, my wife had a radio. I called Peter Arnett, Pulitzer prize-winner with Associated Press. I was reporting Big Minh going from the palace, down in front of the embassy, negotiating the final surrender, and of course the victory parade was being formed to come down Tu Do Street.

So we walked from the Ministry of Foreign Affairs to the Caravelle Hotel. There I met Pete. We observed the first jeep coming down Tu Do Street.

I might say that there were five in the M-151A-1, our American taxpayers' Jeep with a PRG flag flying from the staff in the center of the Jeep, five male PRG soldiers, in black pajamas, all armed with AK-47's and all the muzzles were pointing in the air. They were all waving at everybody, everybody was waving at them, all the flags were out. Of course, I had seen the flags being made three days previously. They were being made everywhere. So we were not allowed in the Caravelle Hotel, that is to either get a room or to open an office.

So in the course of the 22 days before I moved back to my mother-in-law's home, I had relocated the VIVA office in five different hotels. Each time I would move in, the PRG would find that the owner of the

¹ See p. 219.

hotel had abandoned the hotel, which became the property of the Government. I was given my money back, prorated, and told that I had to move. So I moved to the Astor Hotel, located on Tu Do Street. There I opened up a VIVA office in room 101 on the first floor.

This would have been within the period of May 1 to May 20, during that period, of 1975.

Coming back to my office 1 day, coming up the stairs, directly in front of me a door opened, a man approximately 5-feet-6 in height, medium build, dark trousers on, white shirt, no tie, stepped out in the hall and stretched, saw me, immediately went back in and closed the door. He was a Caucasian.

I mentioned this to Mr. Fred Gulden. Fred said that was Gougglemann, Fred told me that was Gougglemann, that he knew Gougglemann; he also mentioned to me that Gougglemann was with CIA. I never saw the man again.

I did report this each time I submitted an update of Americans that I had physically seen in Saigon or the Cho Lon area. I knew there were others, but I specifically only submitted those names of personnel that I physically saw, not hearsay. So perhaps Mr. Fred Gulden can shed more light on Gougglemann, sir. I cannot. I understand Mr. Gulden is still in Bangkok; I do not know.

Mr. GONZALEZ. Well, thank you very much, Mr. Mielke. I think I will echo the expressions of our colleague by saying that your testimony has been far and large the most detailed and the most specific. I hope that we may feel that we can, if necessary, call upon you again.

I will ask Mr. Moakley if he has any further questions.

Mr. MOAKLEY. No. I just echo the words of the chairman; I would like if you are willing, every time you move, if you would leave your forwarding address with us, so if we do have up-to-date information we would like verified, or if we would like to get you back again on a moment's notice.

Mr. MIELKE. Yes, sir.

Mr. MOAKLEY. Thank you very much. Thank you very much for the outstanding testimony.

Mr. MIELKE. It is my pleasure.

Mr. GONZALEZ. I should and I will ask unanimous consent that the record be left open to receive additional materials and exhibits in case you can provide us with any.

Mr. MIELKE. Yes, sir.

Mr. GONZALEZ. Do you have any questions?

Mr. MACDONALD. I would like to ask one question.

As you know, the staff spent quite a number of hours with Mr. Mielke, and Dr. Kenny, who speaks Vietnamese, spoke with Mr. Mielke's wife Misty at some length, going over the "mug shots" and the like. Mike has raised a point here today I would like to clarify.

I am sure the families would be most interested in what he said in terms of possible live Americans. Do you know, other than McKinley Nolan and a couple of defector-types we have discussed, do you know by name positively the identification of any live American being held against his will in Indochina? Can we focus in and get a name and a face instead of just numbers?

Mr. MIELKE. No, I do not. I was working on a case prior to the Communist takeover concerning an E-7 Army type by the name of Perry. Supposedly he came by Honda from Thailand into Cambodia, had defected—excuse me, came into the south of Vietnam, Bien Hoa Province. There he assumed a new identity. I had made up a series of photos, inserted his photo into a group; I passed it around to various individuals and each time this individual was picked from approximately nine various photos.

The way it came about is, he was accepted in a small community in the Bien Hoa Province area, Bien Hoa City, which is the capital of Bien Hoa Province M.R. 3. His mode of transportation was by bicycle. He set a life style that would be fairly well-regulated, going to work in a junkyard, and he felt because of the enclosure of the junkyard that he would not be spotted by other Americans. He was getting about 20,000 piasters a month from this other American who knew his background. But he would be, in my opinion, a deserter, not a POW-MIA type.

Mr. MACDONALD. Is this the one where we have his anonymous or new identity from correspondence from his mother in the 1974 time frame?

Mr. MIELKE. Perhaps, if my VIVA material got out.

I also checked with Alan Dawson, a personal friend of mine, UPI correspondent in Bangkok. I spent 3 days with him after repatriation going over the files.

It is safe to say Alan received about 60 percent of what I sent him. This is when he was expelled on September 3, 1975. If the records that I sent got out, I will have this information on this individual. If we can get, and if VIVA kept records of all my correspondence, we could surface more on this Perry.

As I say, it was incomplete by the time of the Communist takeover. "Salt and pepper," they continually come in, we are familiar with the case on those two. But I am sorry, I wish I could have done more. But I do hope to go back and to continue, if possible.

Mr. GONZALEZ. Do you see any chance of them ever reconstituting a joint commission?

Mr. MIELKE. A joint what, sir?

Mr. GONZALEZ. Commission.

Mr. MIELKE. My personal evaluation, sir, is based on some interrogations by high level KGB-NVA officials. First they start off with invariably telling me I have a broad knowledge of politics, but I really do not qualify myself in that category. Nevertheless, we go into a little bit of background such as my 7 years in Germany. The only time I saw the interrogator smile was when he asked if I spent my 7 years in East or West Germany. I smiled back and said West, of course.

He brought up to me that—this is where he really blew his cool, I was surprised because I thought he was better trained. Anyway, it concerned South Korea getting a seat in the United Nations versus the SRV getting a seat in the United Nations. He really just tore himself apart on this. He started beating the table. He had a ballpoint pen he kept rolling around his hands, talking to it.

They will never give you eyeball contact. I noticed it had "U.S. Government" on the shaft of the pen. He went into a tirade that 92

countries had recognized the SRV and the imperialist American Government was blocking the seat in the U.N., and that the imperialist American Government had committed thousands of crimes, did not use the word "atrocities," thousands of crimes against the people of Vietnam.

The leaders of the new government were teaching their people to forgive the American imperialist Government, but to never forget, not in this century, next century or ever, but he, his Government and his people, did realize that there were many good Americans. And I was put in that category as a good American, based on their extensive investigation of me.

My wife was considered a good American also, and also a good Vietnamese, which we got an "A" on our report card that particular day.

But I think, to answer your question, the seat—their seat in the United Nations is category 1 with them, I think even higher than article 21, personally.

One that was never mentioned to me, I never mentioned it to them, but getting that seat, that is just the vote, the step in the right direction, then the other steps will fall in place.

Article 21 can come later, if that is what you want. I really do think that is their highlight, getting that seat. This might create problems if any group, let's say, would desire or request to go back in—to go in or back into Vietnam, either directly into Hanoi—I understand that if you are going into the south of Vietnam, let's say the Saigon area, that you are going to have to go to Hanoi and then either come down by road transportation or rail, if the rail line is completed yet, I do not know, or come down on something like our own ICCS flights, through their military flights.

All of the government officials, to my knowledge, are in Hanoi because, again when I have 4 days, "Let me go by bus. All I need is a day to talk to the people up there. I can leave from Hanoi and my wife can leave from Saigon." But they said we did not have enough time.

Mr. MIELKE. That's why I say again, if we keep applying the humanitarian aspect of the Vietnamese people, and the renewed, generated interest of the American people, I have even proposed cemeteries, knowing the acute hate of the Vietnamese toward the French, that they did allow the French to have military type cemeteries, and I purposely made a vehicle tour on the 28th of July to those cemeteries within the Saigon, Cho Lon area.

None of the cemeteries have been desecrated, perpetual care is given, you are allowed to visit and walk through the cemetery.

So, it's an outer edge, so to speak. I proposed cemeteries. On a humanitarian basis, and the press that I have talked to, even though I have said that I would rather be dead than red, I am sure they will understand this, I am sure they are going to read everything I said; I am sure they are going to make it a point to.

In fact, they know where I am at right now. But, I have been very candid in my reports, either to the press or to individuals, or this committee, and I don't feel this will hurt my chances at all.

I hope to go back and I do not want to be associated with any government organization going back, that would be ridiculous considering my situation.

I want to go back as a private citizen, that's the way I came out, and that's the way I feel that I can get back in, with my family. I am hopeful that by the end of the year we will go back and, of course, continue not just to go back and see if my trees are bearing fruit yet, but to go back and see if I may continue.

Mr. GONZALEZ. Well, Mr. Moakley and members of the staff, thank you very much.

If you have no further questions, we will say this, Mr. Mielke, that once again we are very grateful to you. It's just not possible to put in words the value of your contribution. We hope to continue very intensively between now and the time that this committee, like all committees in the House in the 94th Congress, must expire, and you probably will hear from us again.

Thank you very much, sir.

Mr. MIELKE. You are welcome, Mr. Chairman.

Thank you, gentlemen.

[Whereupon, at 11:05 the committee adjourned.]

SPECIAL MEETINGS OF THE SELECT COMMITTEE

THE INTERNATIONAL COMMITTEE OF THE RED CROSS

The president of the International Committee of the Red Cross, Mr. Roger Gallopin, and operations director Jean-Pierre Hocke, visited the United States during May 1976 and renewed earlier acquaintance with members of the select committee. Chairman Montgomery hosted a coffee for Mr. Gallopin to which a large number of Congressmen were invited for general discussions. Select committee members had the opportunity to discuss the POW/MIA issue with him and members of his staff.

MEETING WITH LAO DELEGATION

In August, members of the select committee met in New York City with two members of the Lao mission to the United Nations: Mr. Khamthong Boulom and Mr. Thao-Mo Bounnak, counsellor and first secretary of the Lao delegation, respectively. The meeting, arranged by Representative Paul N. McCloskey, Jr. (R-Calif.), centered on efforts to obtain information on missing Americans.

Committee members pressed the importance of gaining an accounting as soon as possible and as a way of hastening normalization of relations. The Lao representatives spoke of the Lao desire for normalizing relations, suggesting that steps toward normalization should precede an accounting, such as termination of alleged CIA over and covert activities against Laos;¹ reconstruction aid; and the appointment of an ambassador to Laos to replace the present Chargé. At the same time, the Lao representatives denied that they were linking normalization of relations with an accounting. Committee members stressed that any and all information on American MIA's would speed normalization. Several MIA files were provided the Lao delegates as examples of the kind of information the United States can furnish. The Lao delegates were asked to forward the files to their home government.

MENNONITE CENTRAL COMMITTEE

In early September, select committee members met with Linda and Murray Hiebert to hear their analysis of the current situation in Laos. Members of the Mennonite Central Committee, the Hieberts had recently come back from Laos where they would be returning shortly. Among many interesting observations about Laos, the Hieberts reported the Lao claim that all living Americans had been returned;

¹ Chairman Montgomery later discussed this allegation personally with the Director of Central Intelligence and was assured that the CIA is not engaged in any activities directed against Laos.

that the Lao considered a total accounting for all Americans lost in Laos impossible because of the rugged terrain; and that the Lao were instructing their people to turn in any information they discovered on missing Americans. According to the Hieberts, the Lao were desirous of better relations with the United States and wished to consider the American MIA problem in a broader context of other outstanding issues.

AMBASSADOR WHITEHOUSE

The Hon. Charles S. Whitehouse, U.S. Ambassador to Thailand, and from 1973 to 1975, Ambassador to Laos, met with members of the select committee in September to discuss the problem of Americans missing in Laos. Thoroughly knowledgeable about American intelligence capabilities and efforts in Laos during his appointment, Ambassador Whitehouse expressed the firm conviction that there were no more American prisoners alive in Laos or elsewhere in Indochina as a result of Indochina hostilities. He commented on the quality of the intelligence reports about Americans known for certain to have been alive in Laos—Emmet Kay, Charles Dean, and Neil Sharman. Reports relative to these men contained specifics: time, place, names, photographs, et cetera. In contrast, other reports were vague and fuzzy. The Ambassador considered the possibility for crash-site investigations very unlikely. During his tenure, the Lao would not even consider permitting any group to conduct such operations, including third country neutrals or the United Nations.

ADDITIONAL COMMITTEE ACTIVITIES

CORRESPONDENCE WITH VIETNAMESE OFFICIALS

Chairman G. V. Montgomery was in frequent communication with the Vietnamese Embassy in Paris and maintained correspondence with Premier Pham Van Dong about various aspects of the MIA issue, including possible further discussions with Vietnamese officials.

AMERICANS IN SAIGON

On behalf of the select committee, Chairman Montgomery devoted special attention to the Americans detained in Saigon. During an April 1976 trip to Geneva as Congressional Advisor to the International Conference on Humanitarian Law, Chairman Montgomery asked foreign delegates, as well as United Nations and Red Cross officials, to use their good offices to assist in the expeditious repatriation of the Americans. In April and May, the chairman publicly and privately communicated to Vietnam his disappointment at the lack of progress in permitting American citizens to leave Vietnam.

Largely as a result of these efforts, the committee was informed, on July 21, 1976, that the Americans would be allowed to leave in early August. After the August departure of 50 American citizens and their dependents, the select committee understood that only a few American citizens remained in Vietnam and continued to exert efforts on their behalf.

EXECUTIVE SESSIONS

Chairman Montgomery called several executive sessions to review progress and discuss committee plans. Additional executive sessions were called to interview Americans who were released from Saigon in the course of the summer.

DIA FILES

On several occasions during July, members of the select committee conducted case analyses within the Defense Intelligence Agency to compare classified files on individuals with the corresponding personnel casualty files to assure that no substantive information was omitted from the file available to next of kin for viewing. Members noted that appropriate extracts from classified documents were included in all such files that were studied. Congressman Gilman took exception with one area of documentation; that questionable area is still being reviewed.

NATIONAL LEAGUE OF FAMILIES CONVENTION

Representatives of the select committee, including Chairman Montgomery, and Congressmen Lloyd, Gilman and Guyer, addressed members of the National League of Families at their 7th annual national convention in Washington, D.C. The Congressmen related their perceptions of the MIA problem in light of 10 months of committee work. Leaders of the league urged that the committee be extended beyond September 11 in order to encourage progress in the hoped-for negotiations.

VANG PAO

Congressman Paul N. McCloskey, Jr. (R-Calif.) interviewed General Vang Pao, American-supported Lao leader of anti-Communist forces in military region II of northeastern Laos from 1961 to 1975. The General again related the reports he had received about Americans held prisoner by the North Vietnamese. No new information was provided. General Vang Pao now lives in exile in the United States.

NATIONAL LEAGUE OF FAMILIES

In early May, Congressmen McCloskey (R-Calif.) and Lloyd (D-Calif.) spoke about the committee's investigations at a Western regional meeting of the National League of Families.

Congressman Henry B. Gonzalez (R-Tex.) addressed the Texas chapter of the National League of Families in Austin, Tex., on June 26. He also proposed that American officials connected with the International Monetary Fund be instructed to vote against loans to Laos until a satisfactory accounting was given, but his amendment was rejected. On two occasions he contacted Secretary of the Treasury William E. Simon, emphasizing that the United States use its leverage in international organizations to urge an accounting by the Indochinese nations.

STAFF ACTIVITIES AND INVESTIGATIONS

At the direction of the select committee, the staff continued its ongoing review and analyses of individual MIA cases and its investi-

gations of rumors and reports that Americans are still held captive in Indochina. Working both independently of and in close cooperation with the American intelligence community, these rumors and reports were carefully analyzed. No evidence emerged that any Americans are still held captive in Indochina as a result of the war.

The situation of Americans still remaining in Saigon after April 1975 was closely watched. State Department reports on the debriefings of American citizens exiting Vietnam were studied. In addition, several individual releasees were questioned privately.

During September, members of the staffs of President Ford and Governor Carter were briefed on the activities, investigations, and functions of the select committee.

FOLLOW-UP TESTIMONY

The staff continued to follow up on leads and contacts provided by those who testified in open or closed session. Persons contacted during the period included key individuals with over 100 combined years experience in Laos. The material of Zalin Grant, who had debriefed several thousand ARVN POW's returned from Cambodia, was examined, as were the records of nearly 200 of those once or still listed as POW or MIA. One of the major results of these inquiries was the identification of several prolific intelligence fabricators. There was enormous skepticism that any American could be alive in Laos, and the Zalin Grant material substantiated Walter Cronkite's testimony. File reviews indicated the initial misclassification of many missing Americans. A few administrative discrepancies were noted in the files, which were corrected when brought to the attention of Defense officials. A comparison of intelligence files with corresponding service files revealed no substantive information withheld from the service files.

DEBRIEFING INDOCHINESE REFUGEES

A number of key Indochinese refugees were contacted to determine whether they had any knowledge of American POW's. Individuals who were well attuned to the Indochinese community in the United States, such as former Ambassador Phan Van Trinh, were asked to make inquiries among their contacts regarding American POW's. General Nguyen Cao Ky was contacted eight times by the staff, but was never able to make or keep an appointment for detailed discussions.

None of the Vietnamese, Lao, or Cambodians contacted had any information on American POW's. The staff also asked Mr. James Rosenthal, a Department of State official visiting Southeast Asia in April, to inquire about the ongoing debriefings of Indochinese refugees in Southeast Asia. Again, there was no evidence of American prisoners.

PERSPECTIVES ON THE AMERICAN POW EXPERIENCE

Mr. Ken Tomlinson, associate editor of the Reader's Digest, met with the staff to discuss a forthcoming book on American POW's in Vietnam. The editors of the Reader's Digest had interviewed over 100 returning American prisoners and shed considerable light on the

unpublicized hardships they endured, hardships which caused the death of some POW's.

The staff also assisted members in reviewing numerous POW debriefs maintained by the Defense Intelligence Agency. The debriefs, which were obtained immediately upon return of the POW's in Operation Homecoming in 1973, were found to be detailed and thorough in their pursuit of information on missing Americans. They left no reason to believe that any Americans known to have been prisoners of war were detained as live POW's after Operation Homecoming.

REVEREND LINDSTROM INTERVIEW

On May 6 and 7, 1976, Rev. Paul D. Lindstrom was interviewed. He had made a large number of public statements regarding American POW's in the 1970-73 period. Reverend Lindstrom presented several reports of POW's and POW camps in Laos, Vietnam, and Cambodia. These reports were checked on at DIA and Air America and were compared to previous reports. Most of the reports were found to be the result of intelligence fabricators. The other reports had already been reviewed by DIA or CIA and found to be without substance.¹

Reverend Lindstrom had no reports since 1973, except an incident in Mexico City which involved an MIA mother, Mrs. Jean MacDonald. The staff spoke with Mrs. MacDonald both at her home and subsequently at the July Convention of the National League of Families. The persons contacting Mrs. MacDonald were seeking a large sum of money for a photograph, supposedly of her son, without even returning him.

AMERICAN FRIENDS SERVICE COMMITTEE

Louis and Eryle Kubicka, Indochina representatives of the American Friends Service Committee, and David Elder, AFSC coordinator of Southeast Asia programs, met with the staff to discuss the Kubickas' observations on their residency in Laos, where they had regular opportunities to meet with numerous Lao officials. Dimensions of the MIA problem were discussed in the context of select committee initiatives toward Laos during the past year, activities of international organizations in Laos, and Laos pressing humanitarian needs. The Kubickas suggested that the Pathet Lao had very little, if any, information about American MIA's and were confused by American demands for a significant accounting.

MIELKE INTERVIEWS

The staff met for detailed discussions with Mr. Richard "Mike" Mielke and his wife, Misty, who were among the Americans released from Saigon on August 1, 1976. Mr. Mielke was of particular interest to the select committee because of his brief association with the JCRC and his known interest in POW/MIA matters as VIVA representative in Saigon.

According to Mr. Mielke, he was afforded the opportunity to debrief upon reaching Bangkok. He declined the opportunity, telling

¹ See testimony of Lt. Gen. Vernon Walters, then Deputy Director of the Central Intelligence Agency, Select Committee Hearings, Part 8, pp. 118-135, 199-211.

Lt. Col. Paul Mather, JCRC representative in Southeast Asia, that he "had nothing hot" and wanted to report first to VIVA.

As indicated in his testimony,¹ Mrs. Mielke had seen on Saigon television what was purported to be an American who, the Vietnamese narrator said, had decided to join the NLF. A special DIA photo identification book, or "mug book," including pictures of MIA's, deserters, and returnees, was prepared for her viewing. In a private interview, Mrs. Mielke carefully scrutinized the "mug book" as well as a photo book of all Americans who were ever unaccounted for in Southeast Asia. The American who appeared on TV bore a resemblance to nine of these individuals, but no positive identification was possible.

Mrs. Mielke related that on four or five sessions she had heard comments in the marketplace concerning hundreds of Americans being held in North Vietnam. These reports were often prompted by the presence nearby of her husband, Mike, because the presence of an American Caucasian in Saigon immediately after the fall was so remarkable. On those occasions—in a store, at the market, at the Saigon zoo—Mrs. Mielke overheard conversations similar to this—North Vietnamese woman to South Vietnamese woman: "You must oppose the Americans." South Vietnamese woman: "You don't even know what an American looks like." North Vietnamese woman: "Oh, yes I do. There are hundreds of Americans in North Vietnam." Mrs. Mielke said that conversations between North Vietnamese and South Vietnamese women were fairly common, and that the South Vietnamese women were often poking fun at their less sophisticated Northern sisters.

According to Mr. Mielke, his wife heard such conversations in the summer of 1975 before other Caucasians, East Europeans, and Russians began to appear in Saigon, thus making Mr. Mielke's presence less unusual and remarkable.

In a separate interview, Mr. Mielke said he would not have believed these stories if anyone but his wife had told him.

Mr. Mielke also stated he heard many reports of Vietnamese uncovering graves—and reports of 20-30 remains being transported to a Saigon mortuary.²

IDENTIFICATION REVIEW BOARD

In late September, committee staff members attended a board meeting at the State Department, where a representative of the Armed Services Graves Registration Office (ASGRO) presented evidence for the positive identification of partial remains of an American civilian. The unidentified remains were recovered on a beach in South Vietnam in June 1973 by a JCRC-CILTHAI team, in cooperation with indigenous locals, after 3 days of digging in the sand. Eight American servicemen and two civilians had been lost within a 30-mile radius of the location of remains. Comparison between these remains and the medical-dental records eliminated the eight servicemen. Positive identification was finally established by cranial-facial photographic

¹ See above, page 64.

² Several reports have been received concerning exhumation and removal of remains and conversion of cemeteries to other purposes. In no case to date has it been reported that the remains were those of Americans.

superimposition; this identity was later confirmed when the individual's dental records were discovered and positively correlated. After studying the records, the review board accepted the identification. The individual was a civilian, a merchant seaman, last seen in December 1965 and classified as missing since that time.

DEBRIEFING OF EMMET KAY

The Pathet Lao immediately captured Emmet Kay and the six Meo officers with whom he was flying on a reconnaissance mission on May 7, 1973. The plane's engine had failed near Phon San.

The enemy guerrilla unit moved Kay east for 3 days where they reached the first cave in which he would be held for the first month of his 14-month period of incarceration. The Pathet Lao accorded him such preferential treatment as freedom from work and use of a sunporch. Kay's description of the cave is noteworthy: The cave was "immense." There was a river running through it. There were blacksmith shops and facilities for making shoes and uniforms and repairing weapons.

The Communists held Kay in a second cave for the next 10 months. Review of maps and available aerial photos indicates that Kay may have been near the village, Xieng Su. One of the Pathet Lao told Kay that a French journalist couple had previously occupied "his" cave during the American bombing of Sam Neua. Kay could find no writings or markings to indicate that prisoners of any nationality had ever been held in the caves through which he was processed.

Kay's status changed in April of 1974 with the establishment of the provisional government. He was no longer a "prisoner of war" but instead, a "violinator of the peace accords." Thereafter, he lived in officers' quarters and received liquor, cigarettes, and better food. On July 23 he was moved to a village, his final place of incarceration. Kay's experience ended with his release in Vientiane on July 18, 1974.

The cooperation of Lao authorities in releasing Emmet Kay led American officials to expect a similar attitude later when Charles Dean and Neil Sharman were captured by the Pathet Lao in September 1974. Both men were observed as captives in Laos on several occasions; since February 1975 there has been no further information.¹

RECORD OF EFFORTS

Since it was formed in September 1975, the select committee has:

- Held 24 open hearings and 17 private sessions.
- Heard 51 witnesses, interviewed over 150 other parties.
- Met twice with President Ford.
- Met twice with Secretary of State Henry Kissinger.
- Met with top-level Indochinese officials in Paris, Hanoi, and Vientiane, at our own initiative.

Held numerous meetings in the United States and abroad with officials of international organizations with direct access to Indochinese countries. These organizations are the International Red Cross and the United Nations High Commissioner for Refugees.

¹ See Select Committee Hearings, part 3, pp. 282-286.

Conferred with United States and foreign diplomatic officials in Thailand, Laos, Paris, and Geneva.

Participated in Geneva in the International Diplomatic Conference on Humanitarian Law in Armed Conflict—dealing with MIA's.

Met innumerable times with representatives of the National League of Families, Voices in Vital America (VIVA), and with family members and interest groups.

Sent a staff member to Paris to talk to the leading French expert on MIA/POW affairs, and to Indochina, where he held extensive conversations with JCRC personnel and Lao officials.

Had the staff investigate scores of primary intelligence sources. Compared service casualty files with intelligence files held by Defense Intelligence Agency (DIA) to assure that no significant information is withheld (over 200 cases).

Reviewed selected debriefings of returned POW's.

Worked in close association with intelligence agencies to investigate reports and rumors concerning missing Americans.

Made several independent efforts to communicate with the Cambodians: in Peking, China; Vientiane, Laos; Paris, France; and in Hanoi, Vietnam. These efforts are still being pursued.

Published parts 1 through 5 of the committee's hearings, plus four bimonthly newsletters describing the testimony received and other committee matters of interest.

Reviewed the investigative material on Americans missing in Cambodia, developed through journalist Zalin Grant's efforts.

Communicated with or interviewed several Americans with over 100 years combined experience in Laos.

RECORD OF ACHIEVEMENTS

These activities have had positive results. No progress on the MIA issue had occurred from 1973 through September of 1975. Since the select committee was formed, considerable movement has taken place:

Nine Americans and five foreign nationals were released from Hanoi on October 30, 1975.

South Vietnam, after initial protests, finally accepted the refugee ship carrying over 1,500 Vietnamese refugees from Guam.

Our select committee received in Hanoi the remains of three Americans.

The remains of the two Marines who were killed in April of 1975 in Saigon were returned in February of 1976.

The Chinese provided information on 24 Americans missing from the Korean War and the Indochina War. The select committee had asked the President and the Secretary of State to discuss the matter with the Chinese when last they visited there.

The ashes of two deceased Americans were returned by the Chinese.

The committee brought to the attention of top-level SRV and Pathet Lao officials the kinds of detailed information on MIA's that can be provided, and gave several case summaries of missing Americans to those officials.

We opened the door to Indochina, just a crack, by meeting with top leadership.

We focused public and governmental attention on the MIA issue both in Indochina and at home.

At the select committee's urging, the Secretary of State offered to begin direct preliminary talks with the Vietnamese to resolve the MIA issue. By October 1976, six messages had been exchanged, and the level and venue of the initial discussions had been agreed upon.

Seventy American citizens and dependents trapped in the fall of Saigon were permitted to exit South Vietnam during 1976. The committee had urged Vietnamese leaders on several occasions to give their attention to this matter.

The Vietnamese announced the names of 12 American pilots they claim were killed during aerial attacks on North Vietnam 1965-68, but no other information was furnished nor were remains returned. (The committee does not view this as an accounting.) Significantly, however, the status of the 12 men had no bearing on the Vietnamese willingness to report on them—6 were either KIA or presumed dead, 6 cases are still active. In addition, the Vietnamese communicated with the U.S. Embassy directly for the first time, and this direct communication is essential if the MIA issue is to be resolved.

A LOOK TO THE FUTURE

The select committee's tenure was extended, on August 2, for the remainder of the 94th Congress.

We will continue to press for another meeting with Indochinese leaders, an accounting, and, where possible, return of remains of missing Americans.

The committee's report will articulate the diverse aspects of the POW/MIA problem, and recommend actions for the future.

We seek to help create the climate and establish the mechanism through which the POW/MIA problem can be resolved.

We will recommend that appropriate provisions be made for continuing congressional oversight of administration efforts to resolve this issue after the select committee completes its task.

STATEMENT OF DERMOT G. FOLEY TO THE HOUSE COMMITTEE ON
MISSING PERSONS IN SOUTHEAST ASIA

On May 12, 1976, I testified before this Committee. The time available for my testimony was limited because of the pressures of other duties upon the members of the Committee and I indicated that I would like to amplify the remarks that I had then made and also, to discuss some additional but related subjects.

The purpose of this statement is to expand somewhat upon the testimony which I gave on May 12 and to present my views on the subjects of Trade with Vietnam and the extent to which there has been a failure to achieve a POW/MIA accounting.

Before getting down to details I would like to make a general observation. I and virtually all other members of the National League of Families have areas of serious disagreement with the Administration and, in particular, with the Departments of Defense and State, on matters pertaining to American POW's and MIA's of the Vietnam War. However, these disagreements are not, and never were based upon an antagonistic orientation toward Government. Also, these disagreements do not represent a desire nor an attempt on our part to continue missing status for anyone beyond the completion of an exhaustive examination of known or available sources of information about these men. We do not seek to perpetuate missing status.

We have become united, however, in our opposition to cavalier indecencies which characterize the treatment of these men in the Paris negotiations and "Peace" Agreement and the manner in which determinations of death are made under the Missing Persons Act.

If this were the first time that there had been a failure by Communist authorities to honor an agreement to account for missing and captured Americans, there might be some excuse for Article 8(b) of the Paris Agreement. But, in many ways, this is a repetition of the Korean experience and, when our Government negotiated in Paris, there is every indication that it ignored that experience. If we failed to protest this vigorously, we believe that it would not only lead to the abandonment of our men in the present situation but also set the stage for the mistreatment of other Americans in the future. The omission of truly effective accounting provisions in the Vietnam settlement was an outrageous and unpardonable failure and, I assure you, it will not be forgotten.

A. AMPLIFICATION OF MY PRIOR TESTIMONY

1. *The Nonrepresentation of servicemen in status reviews*

On May 12, I testified as to specific defects in present status review procedures and suggested that these procedures were not only legally wrong in ways so obvious a schoolchild would recognize them, but also repugnant to our most fundamental cultural and philosophical traditions.

A major confusion that I believe I detect in the record of this Committee which I have been able to examine to date, seems to center on the question of whether the individual designated "primary next-of-kin" by the Defense Department is always the sole person qualified to represent the MIA in a status review.

It is interesting to note that when most of these men went to Vietnam and became casualties they had the right to designate anyone they chose to be their "primary next-of-kin." The essential idea was to let each man select who would deal on his behalf with the Department of Defense. Then, at about the time that we began *McDonald v. McLucas*, the Defense Department found a strange and compulsive need to change the rules. This was accomplished by new regulations which created an arbitrary definition of "primary next-of-kin," regardless of the desires expressed by the subject serviceman and regardless of the capacity or disposition of a relative to faithfully accept the role.

As I indicated in my prior testimony, care should be taken to see to it that the serviceman himself and his personal rights and interests are ably represented

by someone totally free of conflicting interests. If the "primary next-of-kin" does not qualify, then someone else should be required to take his or her place.

The most recent determination of death that I know of graphically illustrates this problem. Major Brent E. Davis became an MIA some years ago. He was married and had no children, but did have parents. Some time after he became missing, his wife, under circumstances which I do not intend to characterize from a moral or a legal standpoint, obtained a license, as a widow, and remarried. At that time, the Marine Corps concluded that she was no longer the dependent of Major Davis and terminated her allotment from his salary because her financial needs were presumably the responsibility of her new spouse. Since Major Davis had named her as his designated beneficiary in his service records and also, I understand, in his Will, she was to be the apparent ultimate recipient of the monies accumulating in the bank account where his pay and allowances were deposited. This bank account grew to a substantial sum.

In or about March, 1974, the former Mrs. Davis (now Mrs. Herman) filed an action in the United States District Court for the District of Columbia seeking an order mandating a status review of Major Davis. On the Government's motion, the action was dismissed, apparently due to the belief of the Judge that a status review would be scheduled. The Judge did not know that, since Mrs. Herman was no longer a recipient of Government benefits, status reviews in cases such as Major Davis' were the subject of a moratorium. Apparently Mrs. Herman did not know that either, but she found out after her action was dismissed and, in or about March, 1975, she filed her second action in the same Court. At that time, I was retained by the National League of Families and by Major Davis' parents to seek intervention in the action. My motion to Intervene cited essentially the constitutional defects I have listed in my testimony before this Committee on May 12, 1976. In short, regardless of the impulses driving other people, the MIA had rights which should not be discarded simply because he became a casualty in the service of his country.

What followed strains belief. Mrs. Herman, for reasons best known to her, found it necessary to obtain an annulment of her second marriage in California. This, I have learned, was obtained in or about December, 1975. She then became the wife of Major Davis again and asked the Marine Corps to reinstate her as a recipient of his pay and allowances. Simultaneously, she requested, as an MIA wife receiving benefits, that a hearing be dispensed with and the Defense Department proceed summarily with a status review.

In the meantime, her lawyers and the Government lawyers requested the Court in Washington to suspend action on my Motion to Intervene.

In rapid fashion, without notice to anyone, the requests were granted and a determination of death made. Then, a motion was filed in the Court at Washington to dismiss the action as moot. And that is where it stands now.

I can't say for sure whether this story will have a happy ending, perhaps even to the accompaniment of wedding bells. But, I do know that the rights of an MIA were trampled and that arbitrary definitions as to who can or cannot represent an MIA were part and parcel of the mechanisms whereby the injustice occurred.

2. Failure to make information available

A recurring theme before this Committee has been concerned with the realization that a vast amount of information, in U.S. possession or control relative to the POW/MIA issue, has not been made available to MIA families, to this Committee, nor to Status Review Boards. The excuses offered have been pathetic. It is important to note that these are materials which have been excluded from the so-called individual "files" made available to family members and this Committee and on the basis of which status reviews have been made.

The practice of thus squirreling away information and documents has long been known to us and, indeed, was specifically pleaded in July, 1973, in the *McDonald v. McLucas* Complaint. Consequently, since the problem has been known to exist for so long, there can be no excuse for its continuance. As I recall the testimony offered to this Committee, the Defense Department has proffered three main excuses for this misconduct.

a. The Defense Department has decided that these materials are "not helpful" and some family members (it does not say how many) wish to be snared from details. This, I submit, is an exercise in pure patronizing arrogance. We do not need to have Big Brother making these decisions for us without our knowledge and neither, I suspect, does the Committee. If there are family members

who do not wish to know details, they can elect to not read them, but this does not justify barring others from information.

b. It would be too expensive and burdensome to organize this material and make it available. This bankrupt "administrative inconvenience" argument was demolished years ago by the Supreme Court in *Goldberg v. Kelly*, 397 U.S. 254 (1970). Also, the Freedom of Information Act mandates that such materials be indexed and filed in an orderly manner so as to be available. This has not been done and it is obvious why this has not been done.

c. Disclosure may be prohibited by the Privacy Act (5 U.S.C. 552a). This has no merit. The Privacy Act was expressly made inapplicable to Congressional Committees. Also, by its terms, the Privacy Act is subordinate to the Freedom of Information Act. Since these materials are not included in personnel files and most, if not all of them, would not pass muster in court as validly classified, access to them by family members through the Freedom of Information Act could be virtually assured. If this failed, they could be obtained through discovery in proceedings where they should be made available for purposes of providing individuals with a fair and meaningful hearing.

The necessary conclusion is that these materials have been withheld not because it was proper to do so, but because there was a desire to suppress their contents. The war in Vietnam is over. The main, if not the only "enemies" from whom this information is being shielded can only be the POW/MIA families and this Committee.

I respectfully submit that this Committee cannot really evaluate the matters it is investigating without access to and independent evaluation of all information.

I believe the Committee knows I have a pending Freedom of Information request which, I now learn, has been the subject of some misstatements in testimony to this Committee.

While testifying on February 4, 1976, Dr. Shields referred to this document request and, unfortunately, has misstated the facts. At p. 15, Part 3, of the proceedings of this Committee Dr. Shields stated that: the document request contained a limit (as to charges) of \$700; that Defense Department fulfilled the request; that Defense Department then stated to me, "If you would like to be more specific, we would be very happy to work with you on this, and if you have problems with the charges, we will discuss them too." Now, the request did have a \$700 limit. It also provided that if this was not enough they should proceed but let me know *right away* by phone. They did not comply with this. Instead, after inordinate delay, they proceeded to use up to \$700 and then informed me that it was inadequate. Further, there never was any offer to me to be "more specific" in the data furnished or to discuss waiver of charges.

Now, if Dr. Shields and I have a misunderstanding on this I would like to make an offer, on the record, which will help resolve it. I offer to sit down with him and any representative of this Committee and negotiate the whole matter, including how much data Defense will yield and how much they would like to get paid for doing so.

The withholding and the selective use of information has presented particularly acute problems respecting this Committee's work. No amount of good will, determination or ambition on the part of this Committee or its staff can ever fully compensate for the fact that the Committee is grossly underfinanced, under-equipped and, generally, unable to really dispose of major portions of POW/MIA problems. Let's face it, your entire budget is roughly 50% of the budget allotted last year to the Presidential Task Force on the Olympic Games.

As a result, this Committee has been limited to absolutely minimal individual investigation of raw evidence and, instead, has been compelled to rely, in a large measure, on the data presented to it by Government agencies who have been very deeply involved in disputes over the way the POW/MIA matter has been handled—in short, sources who have axes to grind.

Thus, when the Committee was organized, I am informed, provision was made for desk space in the Committee's office for representatives of the Departments of Defense and State. However, when a request for similar desk space for the National League of Families (which has been intensely involved in POW/MIA accounting matters throughout the last six years), that request was denied—I believe on the basis that it would represent a "conflict of interest."

As a result, there is a danger that the Committee's achievements will be tempered by a report based on speculation and guesswork derived in large measure

from the spoon-feedings of interested parties. I do not like to be unpleasant about it, but I believe this danger is so serious that it requires straight talk. An illustration of the dangers in this area may be helpful. We understand that members of the Committee have been furnished statistics on the data found by J.C.R.C. at 35 crash sites. There is no evidence that these 35 sites were similar to or representative of the hundreds of other known crash sites which have not yet been examined. They were used solely because they were the first which the other side permitted or people to explore and, hence, they are, at best, a random selection.

Nonetheless, we are informed, it has been suggested that the Committee use these statistics as though they were representative and project a speculation as to the number of remains that might be recovered if all crash sites were examined. The invalidity of this must be obvious. It would be just as irrational, if next November, instead of deciding a Congressional contest on the basis of a true election, one were to suggest that a decisive projection be calculated from the views of a small random selection of voters who may or may not be representative of the electorate as a whole.

What we have here is the distinction between conclusions based on facts and conclusions based on speculation and guesswork. The latter is a particular danger when the raw materials essential to rational decision-making are withheld. I believe that this Committee is becoming increasingly aware of the inadequacy of the information with which it has been furnished. We have long known of the problem and, indeed, three years ago, in the *McDonald* case complaint, we expressly charged that this withholding of information invalidated all status reviews. This known defect has never been rectified, however, and I believe we can all agree that the mere passage of time is no cure for this abuse.

This Committee would, I submit, compromise its own integrity were it to go for this sort of bait and substitute negative speculation or guesswork for a demand that conclusions be based upon an exhaustive examination of all obtainable evidence.

3. Reliance upon so-called individual files is unwarranted

In my view, a determination of death made in the absence of a truly meaningful adversary hearing is a sham. Similarly, I feel substantial danger in any temptation that this Committee may feel to speculate about the fate of any MIA without having access to all possible information. It would be simply unpardonable to leap to conclusions on the basis of what Big Brother has put in the so-called "file." One cannot act with integrity without knowing what has been omitted from the "file." I happen to believe that this Committee knows, for a fact, that it has been given a royal runaround by the Administration and by the Defense Department as far as access to information is concerned. You have no way of knowing the value of the data that Big Brother has withheld from you.

Some day that data may come to light whether through the efforts of this Committee, or through the Freedom of Information Act, or through discovery in court, or whatever. When that day comes, I hope that none of us will be in a position to regret the damage we have caused by having reached conclusions without really examining the evidence. This is a major problem which has not been answered by the Defense Department giving you access to the so-called "files" which they created from some, but not all, of their data. I can see no useful purpose in speculative conclusions made by this Committee, or by a status review board, or by anyone, which are dependent upon known lies from Hanoi and its colleagues and from "files" so selectively created by the Defense Department that their omissions amount to a suppression of evidence.

4. The necessity for objective standards in implementing the Missing Persons Act

In reading the record made on May 12, it is my belief that the difficulties presented by the absence of standards and guidelines in the implementation of the Missing Persons Act are not fully appreciated. An additional brief comment will, I believe, be of assistance.

The principle was stated succinctly by Justice Harlan in his dissent in *Arizona v. California*, 373 U.S. 548, 603, 626: "The principle that authority granted by the legislature must be limited by adequate standards serves two primary functions vital to preserving the separation of powers required by Constitution. See the discussion in Comment, 14 Stan. L. Rev. 372. First, it insures that the fundamental policy decisions in our society will be made not by an appointed official but by the body immediately responsible to the people. Second, it prevents judicial

review from becoming merely an exercise at large by providing the courts with some measure against which to judge the official action that has been challenged." In *McDonald v. McLucas* it was standards and guidelines such as these that the Government stipulated on the record were absent from the procedures employed under the Missing Persons Act to accomplish determinations of death.

B. TRADE WITH VIETNAM

The House Select Committee on Missing Persons in Southeast Asia was created to seek a resolution of the accounting problem. Its purpose is not to aid people who wish to deal in oil or other trade. Nor is it to facilitate handouts to the other side or to open up business opportunities. Any expansion of the goals or purposes of the House Select Committee along these lines would distort the priorities for which it was created.

However, this does not rule out the possibility of some forms of cooperation with the other side provided that such cooperation is keyed to the extent and the quality of the accounting achieved. The accounting must remain the primary goal and all other considerations must be subordinated to it.

Recent reports indicate that the insistence of the other side of "reparations" under Article 21 of the Paris Agreement in return for an accounting under Article 8(b) of that Agreement, has been dropped. They apparently, now, accept the fact that Article 21 "reparations" are not to be expected. Indeed, the whole interdependence concept would appear to be out at this time. If the other side were to claim that all elements of the Paris Agreement must be implemented, they would, for instance, appear to be conceding that they should get out of South Vietnam and return it to the former government. This is beyond the spectrum of practical expectations and would never occur. Consequently, the obligation to account under Article 8(b) of the Paris Agreement exists and it is independent. Apart from the Paris Agreement, the other side's obligation to account is not diminished under principles of international lawfulness (e.g. Geneva Convention) or under the requirements of rudimentary civilized behavior; if they remain incapable of recognizing these, it would be well to question whether there is any point whatever in dealing with them.

It is reported that the North Vietnamese have indicated real need for American help in the following areas:

- a. help in deactivating bombs and other ordinance;
- b. medical supplies and medicine;
- c. food;
- d. trade and an end to the trade embargo;
- e. help in development of oil resources; and
- f. diplomatic relationships and recognition.

If some, and possibly all, of these needs were shown to be genuine and their extent were verified, help from the United States, on purely humanitarian grounds, would be conceivable if the overt antagonisms of the War were over (e.g. Germany, Italy and Japan after World War 2 was over). For instance, if they show that they have particular health problems or food problems, and, if the accounting problems have been attended to, it would be acceptable and consistent with normal American attitudes, to help them on humanitarian grounds. However, it is elementary that there must be an identifiable motivating relationship between the accounting and any such American help.

In this context there are some real or imaginary problems with which both sides must deal. From the American standpoint, viewing things as they have transpired in the past, we must ask, if we help them now, what basis we have for believing that they will render more than a sham accounting, indeed, if even that. The other side may ask whether, if they do finally give the real accounting, they have a basis for relief that we will give them any help and, if so, how much.

The American problem is well-founded. The other side has consistently ignored its duty to account, not only during their conflict with us, but, indeed, also during their conflict with the French. The utilization of the so-called "Nuremberg Exception", as an excuse for failure to comply with their undertakings under the Geneva convention, when that exception was patently inapplicable on its face and as understood internationally, is conclusive evidence of their bad faith. The persistent denial by the other side of knowledge about MIA's when we know, indisputably, that they do have information about a very large number of those MIA's, make suspicion unavoidable. Finally, the other side has a motive

for hiding the truth—we know that they mistreated captured Americans and they must fear the revelation of this in an accounting.

On the other hand, even if unfounded, any problems the other side may claim are clearly and completely manageable. Dishonor of an American assistance commitment, after compliance by the other side, would be totally alien to past American performance and would generate completely unacceptable international public outrage. American compliance, since it can be measured in definite terms (e.g. "X" amounts of medicine, food, trade, etc.), could be the subject of irrevocable commitment analogous to a Letter of Credit or escrow arrangement conditioned upon the fact of and the extent of the other side's performance. Thus, if they keep their word and give a genuine accounting they can have a guarantee of American compliance.

If the United States were to commit itself, irrevocably, to some form of assistance or cooperation (which would be spelled out in quantitative terms) that commitment must be measured against the extent of the accounting which the other side actually delivers. It is not difficult to establish the number of persons still unaccounted for. Obviously some of these cases are easier to account for than others. It would not be unduly difficult to classify the cases into groups arranged according to their relative difficulty. If help is to be given to the other side as a motivation for an accounting, obviously the tougher cases deserve more motivation and the easier cases deserve less. The extent of such assistance or other cooperation should not merely be measured by the number of men as to whom the accounting is given but must also consider the relative difficulty or easiness of each such accounting.

The humanitarian needs of the other side must, of necessity, be identifiable in terms of the quantities of the various items needed and the extent and nature of the trade, investment, and/or other relationships involved. If proof in this detail is not forthcoming, obviously there will not have been any showing of an identifiable humanitarian need. If the other side does not know, in detail, what they need, then they do not need it. It presents no serious problem to catalogue these needs in terms ranging from the non-permanent assets which the needy require first, such as food and medicine, to assets of a more permanent nature, such as plant and equipment or diplomatic relationships which are of less immediate humanitarian concern.

Thus, six factors coincide here which suggest a structure in which an accounting of MIA's can be obtained and the humanitarian needs of the other side can be helped, if the parties are genuinely prepared to get these problems resolved:

- information is available on all or most MIA's if both sides are disposed to try hard enough to obtain it;
- variations in relative difficulty which are to be expected in producing information on a man-by-man basis can be generally organized;
- these categories can be evaluated and such evaluations used to increase the motivation to account in those cases where the accounting is more difficult;
- the humanitarian needs of the other side are identifiable and verifiable;
- those needs are susceptible to arrangement in terms of their immediacy and also in terms of their permanence;
- any misgivings which the other side may have about the willingness of the United States to furnish humanitarian assistance can be overcome by a commitment on the part of the United States in the form of a Letter of Credit or a similar device conditioned as to the furnishing of assistance and as to the extent thereof, only upon fact of and the degree of compliance by the other side.

Past performance by the other side does not promote confidence that a genuine accounting will be achieved if their needs are met first. Consequently any assistance given to them must be based not only upon actual humanitarian needs but also upon the complete end to the antagonisms of the recent war and a real accounting for American MIA's. The approach suggested above, rather than relying upon the unjustifiable and unnecessary luxury of blind faith, offers some reason to expect that commitments will be made and kept by both sides. If either side is unprepared to deal on a basis such as this, it is naive to expect that negotiation will lead to a real and meaningful accounting.

C. HOW MANY PERSONS ARE UNACCOUNTED FOR?

The House Select Committee on Missing Persons in Southeast Asia was created, as noted above, to deal with the question of American servicemen missing

and unaccounted for in Southeast Asia. To begin, it will be helpful to define the dimensions of this in terms of the number of men actually involved. These men fall into three categories: (a) those still officially carried in missing status ("MIA"); (b) those declared dead because they disappeared during hostilities but whose fate is really unknown and whose bodies have not been recovered ("BNR"); (c) those who, having been in captured or missing status, were arbitrarily declared presumptively dead without evidence of the fact of death ("PFOD"). The accounting problem involves the men in all three of these categories.

The accounting provisions in Article 8(b) of the Paris Agreement leaves some ambiguity as to the extent of the obligation of the North Vietnamese and their colleagues to account. The text of the said Article is attached hereto as Exhibit A. Without going into detail, the problem focuses on whether or not this wording mandates an accounting for individuals who, because they were the subjects of determinations of death, with or without evidence of the fact of death, are no longer "still considered missing in action." It is all very well for our Government to claim entitlement to an accounting for these men but the North Vietnamese have indicated that they are inclined to read the Agreement very restrictively indeed. Attached hereto as Exhibit B is an Affidavit of Stephen Frank respecting discussions he had with North Vietnamese officials on this issue.

Furthermore, the evidence is growing daily of a disposition on the part of American officials to ignore the realities and treat those in the PFOD category and the BNR category as having been accounted for, thereby, limiting the accounting issue only to those still in missing status. Two examples can be cited. Page 1 of Volume 1 of the printed record of proceedings before this Committee reports that Mr. Frank Sieverts of the Department of State furnished figures to the Committee on September 23, 1975—"It's 863 unaccounted for of which 758 are missing in action, 69 missing in action non-hostile." As will be shown below, Mr. Sieverts was thus eliminating by far the vast majority of the unaccounted for men. Another example can be found in the August 15, 1975 letter from Dr. Shields to Senator Muskie, a copy of which is attached as Exhibit C. At the foot of page 1 of that letter Dr. Shields states: "As of 31 July 1975 there were 868 men still unaccounted for." More recently, I understand, the Defense Department has indicated to the Committee that approximately 2500 men are involved. However, I believe that this figure also is derived from calculations in which many PFOD's were treated as having been accounted for. I believe that the Committee has done no independent investigation.

With statistics of this nature coming from official governmental sources, it would hardly be surprising to find the Committee misled as to the number of men involved in the accounting problem. If the Committee's work is to proceed with integrity it must begin with accurate figures as to the number of men involved.

Under the Missing Persons Act (5 U.S.C. 555 and 556) there are two (2) types of determination of death: (a) "official report of death" which is based on at least some evidence of the fact of death; and (b) "finding of death" which is a presumptive determination made without evidence of the fact of death (PFOD). For the period during and after the Vietnam War approximately 3000 determinations of death were made and of these approximately 80%, or 2400, were PFOD's as to whom there never has been any accounting or any evidence of the actual fact of death.

Evidence of this prevalence of PFOD's can be seen at the foot of page 1 of Dr. Shields letter to Senator Muskie (Exhibit C). There it is reported that of 504 determinations of death made between January 27, 1973 and July 31, 1975 (when POW returnee debriefings and similar sources produced uniquely large amounts of evidence to support "official reports of death") 349, or approximately 70%, were PFOD's. At all other times, such evidence was relatively unavailable and the proportion of such determinations, without evidence of the fact of death was far higher. Thus, it can be stated confidently that the above overall figure of 80%, or 2,400 PFOD's, is conservative.

The estimated total of 3,000 determinations of death is also supportable. Dr. Shields reported 504 between January 27, 1973 and July 31, 1975 (Exhibit C hereto). Attached hereto as Exhibit D is a letter dated August 7, 1973 from the Department of Defense to Representative Chet Hollifield reporting 2,313 determinations of death between January 1, 1961 and December 30, 1972. To these figures must be added those for determinations of death made between December 31, 1972 and January 27, 1973 and for the period from July 31, 1975 to date.

Thus, the figure of 3,000 is essentially accurate and of these, conservatively, 2,400 remain unaccounted for.

To this figure of 2,400 one must add 1,150 BNR's. Apart from the arbitrary determinations made in the field respecting these men, without actual evidence of the fact of death, no accounting has been made. Finally, there are approximately 850 men still carried in missing status and everyone seems to agree, for the moment at least, that no accounting has been received as to them.

Thus, the mathematics of the situation are rather clear:

PFOD's	2,400
BNR's	1,150
MIA's	850

Total unaccounted for 4,400

To place these figures in clearer perspective a comparison of these numbers with the mere 550 POW's returned at the end of the war, demonstrates that for every one man returned or accounted for, eight men remain unaccounted for. Of those not accounted for, several are individuals whose capture alive, is not opened to dispute. As to many others, there is some evidence that the other side knows more than they are saying. Even in cases of where no direct evidence exists, we do know that the other side normally was aware of the fact when they shot down our aircraft and that, routinely and always after such events, they inundated the countryside in a search to capture the Americans who were casualties.

Manifestly, 4,400 men did not disappear from the face of the earth without trace. Any effort to resolve the accounting problem which fails to begin with the realization that no honest accounting effort has yet been made by the other side, is marred by an initial premise which is false, if not dishonest. Those seeking an accounting must begin with a clear statement of who and how many are the men for whom they search.

CONCLUSION

Recent Senate criticism of the work of the Warren Commission demonstrates the inadequacy of reliance upon spoon-feeding from participants with an axe to grind as opposed to genuine in-depth and independent investigation. This problem is particularly acute in situations such as that which this Committee now faces where resources to do a complete job are lacking and where the Committee knows, or should know, that information exists and could be made available in a raw, non-conclusory state, but has been withheld. It does not matter much why it has been withheld. The mere fact that it has been withheld means that the job of the Committee has been carried only to the point where any negative conclusions by the Committee respecting the fate of POW's and MIA's must be speculative and must subject the Committee to the suspicion of having acted on an engineered record or an inadequate record.

For the Committee to end its investigation this Summer, under these circumstances, would, at best, be leaving many important aspects of the situation in essentially the same condition as existed one year ago. This would be a great and unnecessary shame.

If this Committee were to cease its activity as now scheduled, I submit that the only honest report that it could issue is to state that it was unequipped in terms of time, funds, facilities, personnel and data to complete its task. I sincerely hope that you will seek an extension of your mandate, an increase in its support and access to all available information until you can accomplish a really exhaustive effort to resolve the MIA matter. And then issue a complete, candid, credible report that protects no one and hides nothing. People are tired of cover-ups and pave-overs in this country today and I am sure you will agree that, at all costs, the POW/MIA area, everything should be out in the open before the Committee's work is done.

I thank you for this opportunity to state my views.

Respectfully submitted,

DERMOT G. FOLEY.

EXHIBIT A

PARIS AGREEMENT—ARTICLE 8(b)

"The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action." (Emphasis supplied)

EXHIBIT B

(The original of this affidavit was filed in the United States Supreme Court in the *McDonald v. McLucas* appeal.)

AFFIDAVIT OF STEPHEN R. FRANK

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Stephen R. Frank, being sworn, say:

1. I am Director of Operations for an organization known as "Voices in Vital America", ("VIVA"), which is "dedicated to those who preserve our freedom, shall it forever endure". This organization has been actively engaged in working for the release and identification of our Prisoners of War and Missing in Action in Southeast Asia since 1970.

2. In the middle of July 1973, VIVA sent over to Southeast Asia a delegation to ascertain the status of this nation's Missing in Action and unidentified Prisoners of War (who at that time numbered in excess of 1,300). This investigation was undertaken on behalf of the families of these Missing in Action and unidentified Prisoners of War.

3. On or about July 23, 1973, a meeting was arranged whereby the undersigned and three colleagues would meet with Colonel Nguyen Do, Chief of Delegation for the Democratic Republic of Vietnam (i.e., North Vietnam) to the Four Power Joint Military Commission and the Assistant Head of that delegation at Camp Davis, Ton Son Nhut, Air Force Base, Saigon, Republic of Vietnam. Colonel Do is the chief representative of North Vietnam responsible for any accounting relating to the 1,300+ Americans still listed as Missing in Action or unidentified Prisoners of War.

4. During said meeting on July 23, 1973, Colonel Do was asked as to certain individuals comprising the 1,300+ list. He stated, "We do not know why you are here because your government considers all these men dead." At said meeting, he impressed upon the undersigned the fact that his government felt it was inappropriate for any Americans to discuss with the North Vietnamese anything dealing with Americans who had already been classified as dead by the United States of America.

5. In subsequent conversations with knowledgeable people in Saigon, it was reiterated many times that the position of the government of North Vietnam is that they will not discuss any of the 1,300+ Americans who are still Missing in Action and unidentified Prisoners of War who are considered to be dead by the government of the United States of America.

6. On Friday evening, October 26, 1973, I related the above conversation to Dermot Foley, Esquire.

Dated: March 13, 1974.

STEPHEN R. FRANK.

On March 13, 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared STEPHEN R. FRANK, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

Witness my hand and official seal.

SIDNEY R. ADAIR,
Notary Public, California.

EXHIBIT C

ASSISTANT SECRETARY OF INTERNATIONAL AFFAIRS,
Washington, D.C., August 15, 1975.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: Mrs. Maury has asked that I reply to your inquiry of 6 August 1975 pertaining to status determinations of servicemen missing in Southeast Asia.

Changes in status to deceased have been made by the Secretaries of the Military Departments in cases of servicemen who were missing in Southeast Asia both prior to and following the signing of the Paris Agreement on January 27, 1973. These changes were effected as a result of the return and identification of remains, information from our men repatriated from enemy captivity or the conclusion that a missing individual could no longer be presumed to be living.

Secretarial determinations of presumptive death are effected only after exhaustive, meticulous individual reviews of the cases of the missing men have been conducted by a board of experts of the appropriate Service. The board considers all aspects of the case, which include not only any lapse of time without additional information, but also the likelihood of its future receipt. Some of our missing men were lost under circumstances which render the possibility of further knowledge of their fate by the other side extremely unlikely. For example, many of the incidents involving the loss of the crew of a high performance aircraft over water or in a remote jungle area would be extremely difficult to resolve through the acquisition of direct evidence, even if our search teams were given unlimited access to all communist-held territory in Southeast Asia and of the Democratic Republic of Vietnam and the Provisional Revolutionary Government provided us all the information they possessed in compliance with Article 8(b) of the Paris Agreement.

Between 27 January 1973 and 31 July 1975 there were 504 status changes made by the Service Secretaries. This number includes 155 reports of death based on circumstances of loss, recoveries of remains, returnee debriefs and related information. There have been 349 findings of death based on similar but less precise information. As of 31 July 1975 there were 868 men still unaccounted for.

There have been many factors in the evolution of the DoD policy pertaining to status reviews. The Paris Agreement called for a complete accounting of the missing in North and South Vietnam, and the establishment of the Four-Party Joint Military Team (FPJMT) to carry out this task. The US Delegation to this team conducted face to face negotiations with the Communists that resulted in the return of the remains of 23 American servicemen who had died in captivity. As these negotiations were transpiring a suit was filed on 20 July 1973 by five next of kin of MIA servicemen, as a class action, against the Secretaries of the Military Departments attacking the constitutionality of Title 37, USC, Sections 555 and 556 which govern review of any changes to the status of missing servicemen (*McDonald v. McLucas*—73 Civ. 3190).

As a result of the Temporary Restraining Order handed down by the court on 6 August 1975, Secretarial reviews could only be conducted in those cases where the primary next of kin requested the appropriate Secretary in writing that he not delay action based on information in his possession. The court's final decree, which was entered on 11 March 1974, enjoined the defendants from conducting any such status reviews unless next of kin currently receiving governmental financial benefits that could be terminated by a status review are given notice of a status review; afforded a reasonable opportunity to attend a hearing, with a lawyer if they so choose; reasonable access to the information upon which the status review will be based; and permission to present any information which they consider relevant to the proceeding. The military regulations implementing Title 37, USC, have been changed to comply with the court's decree.

Although the legal issues posed by that lawsuit have been settled, many other issues relating to the problem of accounting for our missing remain. One particularly disturbing issue concerns the question of whether any servicemen remain in captivity in Southeast Asia. Although we were never able to confirm them, we continued to receive reports of sightings of American prisoners up until the collapse of South Vietnam. Even though our direct contact with Communist offi-

cials on the accounting question was severed with the fall of South Vietnam, active efforts are still underway to achieve an accounting, and only recently North Vietnam confirmed the death of three airmen who had been lost over North Vietnam. We are trying now to bring about the repatriation of the remains of those men. In addition to our efforts within the Administration, Congress has also made active efforts to achieve progress in accounting for our missing men. At the present time, H. Res. 335, calling for the establishment of a select committee to review all aspects of the prisoner/missing problem, is awaiting action by the House Rules Committee. Legislation has also been introduced which would restrict the authority of the Secretaries of the Military Departments to make changes of status from prisoner or missing in action to deceased.

For all of these reasons, the Services are maintaining a policy of conducting reviews in individual cases when circumstances, such as the receipt of new and pertinent data, warrant such action.

Additionally, as they have done since the first men became missing, the Services honor requests from primary next of kin to conduct reviews. It is not contemplated that these procedures will result in missing men being carried on Service rolls indefinitely.

We appreciate your interest in resolving the plight of our missing servicemen and their families. We shall be pleased to furnish any additional information on this subject which you may require.

Sincerely,

ROGER E. SHIELDS,
Deputy Assistant Secretary.

EXHIBIT "D"

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., August 7, 1975.

Hon. CHET HOLIFIELD,
House of Representatives.

DEAR MR. HOLIFIELD: This is in response to your July 27, 1973 referral of Mr. William G. Smith's letter of July 13, 1973 requesting certain statistics concerning U.S. military personnel whose casualty status has been changed from missing in action to officially dead and requesting copies of the regulatory guidance used by the Military Services relating to such changes.

Enclosed is a table which provides the statistics requested. Sections 551-553 of title 37, United States Code, are the exclusive regulatory guidance used by all Military Departments in connection with these changes. Copies of these sections of the Code are enclosed.

It is hoped that this information will be helpful to you in responding to Mr. Smith's letter which is being returned as requested.

Sincerely,

JOHN L. DONNELLY,
Director for Information Operations.

Enclosure.

U.S. MILITARY PERSONNEL, SOUTHEAST ASIA, DIED WHILE MISSING AND MISSING IN ACTION AS OF DATE:
MAY 30, 1971, DEC. 30, 1972 AND JUNE 30, 1973

	Army	Navy	USMC	USAF	Total
DIED WHILE MISSING					
Jan. 1, 1961 through:					
May 29, 1971.....	1,613	182	5	389	2,189
Dec. 30, 1972.....	1,689	187	5	432	2,313
June 30, 1973.....	1,694	208	5	500	2,407
MISSING IN ACTION					
As of:					
May 29, 1971.....	270	113	81	559	1,023
Dec. 30, 1972.....	253	139	96	739	1,227
June 30, 1973.....	235	117	91	647	1,090

NATIONAL LEAGUE OF FAMILIES
OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington, D.C., July 19, 1976.

Hon. BENJAMIN A. GILMAN,
House of Representatives,
Washington, D.C.

DEAR BEN: During the hearing in which testimony was presented to the Select Committee on Missing Persons in Southeast Asia by Mrs. Robert Hagerman and Mrs. Douglas Ferguson on June 25, there arose some questions regarding League membership and whether the League leadership represented that membership and enjoyed its support and confidence. The League office has surveyed its membership files and prepared the following information for you which answers these questions without a doubt.

I respectfully request that you submit this information to the committee for the record at its hearing on July 21.

According to the by-laws of the National League of Families of American Prisoners and Missing in Southeast Asia, membership is open to "Any family member of an American who is now or hereafter during the existence of the League becomes captured or missing in Southeast Asia. . . . For the purposes of these by-laws 'family member' shall be given the broadest possible interpretation and include, among other categories recognized by the Board of Directors, a blood or lawful relative of the American who is now or has been a prisoner or missing in Southeast Asia and his or her spouse." Concerned citizens and other non-relatives of POWs and MIAs are not eligible for membership and may not vote or hold office in the League.

The League has 1,987 family members on its rolls. This does not include the returned prisoners of war and their families, many of whom have maintained membership in the League and are active.

Information from the Department of Defense reveals that approximately 50% of the men who are still unaccounted for have a wife as the primary next-of-kin (PNOK) with the other 50% having some other relative, i.e. father, mother, child, brother, sister, fiancé, etc., as their PNOK. There are some 47 men who do not have a PNOK listed, according to DoD.

The League's files show that 354 PNOK wives, 387 PNOK parents, and 14 other PNOK family members are members of the League. In addition, there are 1,232 other relatives, many of whom are secondary next-of-kin (SNOK), who maintain membership in the League. This totals to the 1,987 family membership of the League.

It is interesting to note also that of the men who are still unaccounted for, our research revealed that 900 of them are represented by a PNOK, SNOK or other family member having membership in the League.

There have been several times recently wherein comments have been made to me or to Carol Bates that the League leadership is not truly representative of the League's members and/or that the League is divided in its support of the policies adopted by the Board of Directors. These comments come from Congressional sources including Congressmen themselves. I am indignant that such a concerted effort was made by someone to vilify the credibility of the League and its leadership. Nothing could be further from the truth and such comments are made either from ignorance or in a deliberate attempt to discredit the League and its Board of Directors.

I have attached a copy of the certified results of the recent election of the League's Board of Directors for 1976-77. Fifteen members were elected to the Board. Each member of the outgoing (old) Board who was elected to the Board last year, 1975-76, and who ran for the Board again this year was reelected. I have marked those by an asterisk on the attached certified results. Only three of the fifteen members of the 1976-77 Board have never previously been a Board member.

This proves without a doubt that the League membership has had and continues to have confidence in the League leadership, otherwise those old Board members would not have received such an outstanding vote of confidence by being reelected.

In last year's election for the 1975-76 Board, a vote was taken to determine the number of League members who agreed with the League policy and the direction the League was going. An overwhelming 95% of the League members voted their confidence in the Board by voting "agreed." Of the 5% who "dis-

agreed," over half of them did so because they felt the League was not sufficiently vocal or taking strong enough action to gain an accounting.

In summary, the results of both last year's vote and this year's vote by the membership for the League's Board of Directors prove beyond any doubt that the League leadership enjoys full and complete confidence from its membership and belies comments to the contrary. It further shows that although some members may have personal or independent thoughts on how the League should achieve its objectives, they are near unanimous in their belief of what the League is doing and the manner in which the League leadership is doing it.

Again, I respectfully request this information be made a matter of record at the hearing to be held on July 21, 1976, by the House Select Committee on Missing Persons.

Sincerely,

EARL P. HOPPER, Sr.,
Colonel, AUS-Ret. Executive Director.

Enclosure.

NATIONAL LEAGUE OF FAMILIES,
OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington, D.C.

The following is the certified count by the American Legion of votes received for election of the 1976-77 Board of Directors of the National League of Families of American Prisoners and Missing in Southeast Asia:

** 1. Col. (Ret.) Earl P. Hopper	817	18. Edwin A. Pearce	487
* 2. George L. Brooks	709	19. Marian Shelton	482
* 3. Lt. Col. (Ret.) Robert Brett	704	20. Vincent J. Donahue	453
* Tie 4-5 George A. Schultz	697	Tie 21-22. Gordon Hardy, Sr.	413
* Tie 4-5. Lt. Col. (Ret.) Walter Hartness	697	Tie 21-22. Alberta Huneycutt	413
* 6. Jeffrey C. Donahue	655	23. Edith M. Ecklund	407
* 7. Ann Mills Griffiths	649	24. Vergie A. Townley	402
8. Betty Foley	636	25. John G. Estocin	345
** 9. Kay Bosiljevac	631	26. Elzene E. Gourley	335
* 10. Sara Frances Shay	620	27. C. Diane Nichols	330
* 11. Barbara Lewis	614	28. Robert H. Hall	315
* 12. Capt. John W. Parsels	607	29. Alice Duckett	280
13. Chuck Nolan	594	30. Robert J. Pryor	253
14. Lawrence J. Stark	534	31. Nell Miller Johnston	246
** 15. Elaine Worrell	532	32. Barbara Lowerison	212
16. Col. (Ret.) Woodrow Parker	499	33. Betty Ratzel	173
17. F. T. Runyan	489	34. Ralph Bisz	164
		35. Ruth E. Poole	160

*Former member board of directors, 1975-76.

**Former member board of directors, 1974-75.

A total of 1,239 ballots were received and counted. The special vote to amend the League's By-laws which would reduce the number of members of the Board of Directors from 15 to 9 was *defeated*. A two-thirds affirmative vote was required for passage. The vote was 579 "Yes" vote for reduction and 532 "No" vote against reduction.

I certify the above is an accurate accounting of the ballots received.

JAMES R. WILSON,
Director, National Security-Foreign Relations Division.
ANITA L. STEVENS,
Secretary, National Security-Foreign Relations Division.

[From Commanders Digest, Department of Defense, Mar. 1, 1973]
Includes Provisions for Families of MIA's

LAW, EXECUTIVE ACTIONS BENEFITING RETURNEES DETAILED

Long before American prisoners of war began the trip home, the U.S. Government anticipated their return and possible needs by starting various programs to benefit them. A large body of the benefits for prisoners of war has been enacted into Public Law. Other portions represent Executive Branch actions, making available the existing resources, such as special Veterans' Administration programs.

Following is a compilation of those programs:

PUBLIC LAW 91-200, FEBRUARY 1970

Public Law 91-200 abolished the \$10,000 limit on which interest is payable in Uniformed Services Savings Deposit Program for all of the Uniformed Services personnel who are prisoners of war or missing in action (PW/MIA's). The provisions of P.L. 91-200 are applicable to those members who, during the period February 28, 1961, to termination of combatant activities in Vietnam, entered into or may have entered into a prisoner-of-war, missing-in-action, or detained status.

PUBLIC LAW 91-289, JUNE 1970

Public Law 91-289 amended the War Claims Act of 1948. The law grants, to any member of the Armed Forces of the United States who was held a prisoner of war for any period of time between February 28, 1961, and the official ending of the Vietnam Conflict, slightly increased benefits over those granted to authorized prisoners of war captured during World War II and the Korean Conflict. The law authorizes \$2 for each day of captivity during which the prisoner of war was not furnished the quality or quantity of food as specified by the Geneva Convention and \$3 per day of captivity for forced labor or inhumane treatment contrary to the Geneva Convention.

The act also provides for payment of \$60 per month to all civilian American citizens who are held captive by North Vietnam forces. In the case of death or a determination of death of a person entitled to compensation under this act, the compensation is payable to specific survivors, including the widow, children, and parents in that order.

PUBLIC LAW 91-534, DECEMBER 1970

Public Law 91-534 provides a family separation allowance of \$30 a month to any member of a Uniformed Service not otherwise entitled to this allowance if he has dependents and was in a missing status on or after February 28, 1961. Members in grade up to E-4 and those in grade E-4 who have less than 4 years of service are the primary recipients of the benefit. The law became effective on January 1, 1971.

PUBLIC LAW 91-584, DECEMBER 1970

Public Law 91-584 granted certain Veterans Administration (VA) benefits to wives and children of Servicemen in a missing status. The law provides that the wife or children of a member of the Armed Forces who has been officially declared missing in action, captured, or detained or interned by a foreign government may use the education benefits to which the husband or father would be entitled. The special entitlement ends when the military member's missing status is officially terminated. The law also provides that the wife of such member is eligible for home loan guarantee benefits equivalent to those to which the Serviceman is entitled. The eligibility lasts until the member's status under the Missing Persons Act is terminated. Use of the guaranteed home loan provision by the wife will not bar the Serviceman from subsequently exercising the home loan guarantee benefit available from VA.

PUBLIC LAW 92-169, NOVEMBER 1971

Public Law 92-169 made promotion of a missing member valid for all purposes. The law provides that promotions of persons carried as missing under Title 37, United States Code, are valid for all purposes, including Federal benefits to sur-

vivors, even though the date of death of the missing member is later determined to have occurred prior to the promotion. Dependency and Indemnity Compensation (DIC) paid by the Veterans Administration to the survivors of a Serviceman who dies on active duty is based on the pay grade held by the member as of the date of his death. Except for this law, promotion after the date of death could not be considered in determining the amount of DIC payments due. The law insures that compensation payments are based on the rate of pay for the higher grade. Enactment date was November 24, 1971.

PUBLIC LAW 92-279, APRIL 1972

Public Law 92-279 amended existing income tax exclusion laws. The law amends the existing statutes with respect to the dollar limits previously in effect on compensation received by Armed Forces personnel while serving in a combat zone that can be excluded from gross income for income tax purposes. The April 1972 law excludes from gross income for income tax purposes that "... compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status during the Vietnam conflict." The enactment date was April 26, 1972.

PUBLIC LAW 92-365, AUGUST 1972

Public Law 92-365 authorized Service Academy appointments for sons of persons in a missing status. The law permits children of Service members and civilian employees who are in a missing status during the Vietnam Conflict to compete in a special category for Presidential appointment to a Service Academy. Previously, the law authorized 40 children of Armed Forces members who were killed in action or suffered 100 percent service-connected disability to be in each of the three Service Academies at any one time. The law increases that number to 65. It also adds to the other two eligible groups those sons of Servicemen or civilian employees in missing status during the Vietnam Conflict.

PUBLIC LAW 92-477, OCTOBER 1972

Public Law 92-477 authorized additional movements of dependents and household goods and personal effects of those who are in missing status. Previous law allowed only one movement of household goods and effects of those members. The new law authorizes the dependents of a member in a missing status, having once been furnished transportation for themselves and their household and personal effects incident to the member's entry into a missing status, to be furnished transportation more than once while the member's status remains unchanged. The law also authorizes an original and additional movement of mobile homes or house trailers of members in missing status, as long as the movement is within the continental United States (CONUS) or Alaska or between the two areas. Movement of those items at Government expense was not previously authorized.

PUBLIC LAW 92-482, OCTOBER 1972

Public Law 92-482 permitted continued payment of incentive pay for hazardous duty following the return of a member of the Uniformed Services who had been in a missing status. The law, enacted on October 9, 1972, authorizes the continued payment of such compensation through the period of hospitalization and rehabilitation necessary following a person's return from missing status. It can continue for up to one year. In supporting passage of the legislation, the Department of Defense emphasized that, because of the length and circumstances of their confinement, many of these persons must be expected to require extended periods of hospitalization and rehabilitation following repatriation. It was the DoD position that family incomes should not be reduced during this period by the elimination of incentive pay—even though the person may not meet all the requirements for performance of hazardous duty at the time of repatriation.

PUBLIC LAW 92-540, OCTOBER 1972

One provision of Public Law 92-540 extended expiration dates of certain powers of attorney executed by Service members who are missing in action or held as prisoners of war. This portion of the law alleviates an adverse situation that has developed for PW/MIA families because of the prolonged periods some

members have been prisoners or missing. As enacted, the law extends the expiration date of certain powers of attorney granted to a wife or other person in order to facilitate the handling of necessary financial transactions.

PUBLIC LAW 92-596, OCTOBER 1972

Public Law 92-596 relieved military personnel in a missing status of the 60- or 90-day limitations applying to the accumulation of leave. It provides for a cash payment for leave accrued while in a missing status, subject to a 150-day limitation on leave accrual for members determined to have died while in such status. For those determined to have died while in a missing status, maximum leave accrual will not exceed 150 days, unless the actual date of death is determined to have occurred subsequent to 5 years after entry into a missing status. In such cases, leave will accrue from entry into missing status until the actual date of death. Payment for leave so accrued will normally be made to the member's estate or his beneficiaries.

Repatriated members will be entitled to payment for all leave accrued while in missing status. Payment will be based on a one-time updating of the member's leave record and will not interfere with subsequent accrual of leave or with unused leave accrued prior to entering a missing status. The law will also not interfere with the granting of necessary convalescent leave.

The legislation applies not only to persons now in a missing status, but also to any member who lost unused accrued leave because of having been in a missing status for any period since February 28, 1961.

ADMINISTRATIVE ACTIONS

FICA PAYMENTS

Although not a legislative item, the Department of Defense and the Internal Revenue Service (IRS) have reached an agreement on recovery of back FICA taxes paid by PW/MIA personnel. The law applies in all cases where the date of death of the Serviceman is known to have occurred at some time prior to the actual stoppage of an allotment for FICA payments. Administrative procedures for filing such claims are being worked out by the IRS. FICA taxes paid by PW/MIA persons whose date of death is presumptive as determined by the appropriate Service Secretary are not recoverable, since those withholdings go toward Social Security benefits computed as of the presumptive date.

SPACE-AVAILABLE TRAVEL

The dependents of persons listed as PW/MIA can get space-available travel in military aircraft for trips within CONUS or overseas when specifically authorized by the appropriate Chief of Staff for humanitarian reasons.

RULING ON SGLI COVERAGE

A Veterans Administration (VA) ruling announced in November 1972 made possible the payment of as much as \$5,000 or \$10,000 additional life insurance to families of some Servicemen in missing status and later determined to have died.

Families of Servicemen who were in a missing status prior to September 29, 1965—when Servicemen's Group Life Insurance (SGLI) first became available—and of those who were carried in this status before June 25, 1970—when the amount of insurance was increased from \$10,000 to \$15,000—are affected by the VA ruling.

Under the VA regulation, SGLI coverage will be deemed to have continued until the Department of Defense officially terminates the missing status. For example, if a Serviceman was in missing status prior to September 29, 1965, SGLI will be payable to his survivors, if he is dead. If he were found or determined to have died on any date prior to June 25, 1970, while still in a missing status, the original SGLI amount of \$10,000 will be payable. In the cases of Servicemen in missing status before June 25, 1970, who are later found or determined to have died on some later date while still in missing status, the increased SGLI amount of \$15,000 will be payable to survivors. By legal definition, "missing status" includes both missing in action and prisoner of war, as well as certain other circumstances of missing from duty.

Under normal insurance practices no insurance would be payable where death occurred before the insurance went into effect and only the lower amount would be paid where death occurred before the insurance was increased. Under VA's current rule, insurance will be provided if the member was carried by his Service in a missing status (that is, pay and allowances were continuing) when the policy became effective in 1935 and the increased amount will be payable if the missing status continued through the 1970 date even though it may develop that death occurred earlier than one of these dates.

The new rule is limited to SGLI. That program is unique in that the coverage and increased coverage were provided automatically based on the missing Serviceman's continuing pay status.

In any other situation, life insurance would have been in effect when the missing status commenced and the amount would be the same when death actually occurred. Premiums paid after death would be returned. However, that approach in the SGLI program would lead to survivors' receiving no insurance or a lesser amount of insurance when they had been led to believe the full amount was in force, and premiums had been deducted from Service pay on that basis. Such a result would be inequitable, VA officials feel.

In dealing with all veterans benefits for PWs, MIAs, and their families, VA officials said "this same compassionate approach will be used to the maximum extent possible under the law."

BENEFIT RETROACTIVITY RULING

An amendment to social security regulations to protect survivors of Servicemen having been carried in a missing status against loss of social security benefits was adopted by the Social Security Administration in June 1970.

The administrative change, published in the FEDERAL REGISTER at the time, eliminated a technical barrier that, in some cases, could have kept Servicemen's survivors from receiving full benefit protection.

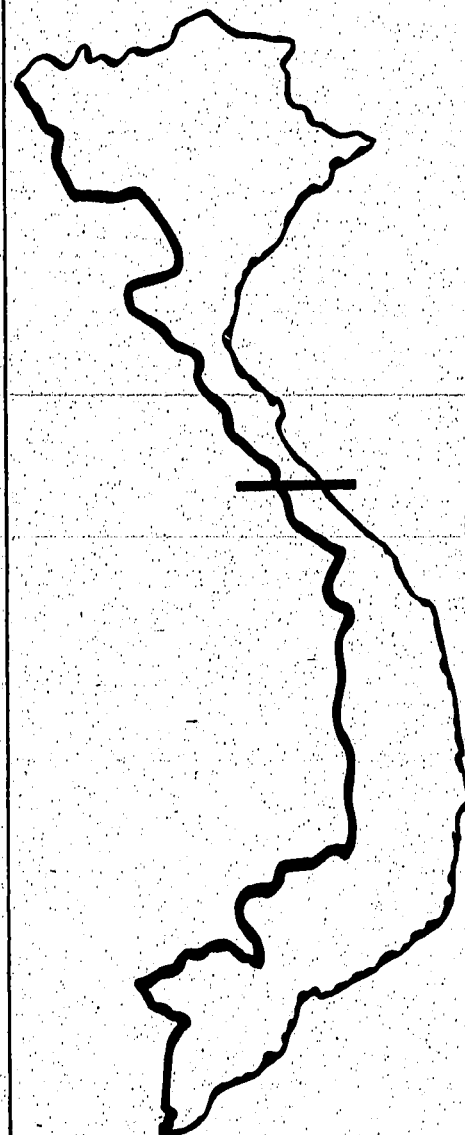
Under usual procedures, the retroactivity of benefits is limited to no more than one year prior to the month in which survivors file an application for benefits or a statement of intent to claim benefits.

There is a natural reluctance on the part of next-of-kin of a member in missing status to officially state an intent to claim social security benefits, thus presuming the death of the member before an official determination is made as to the person's status. In cases where a Service Secretary receives information that establishes an earlier date of actual death, the 1970 regulation change will preclude the loss of many months of social security benefits for survivors. Under the change, the casualty form prepared by the appropriate Service indicating the member's missing status will be considered as a statement of intent to claim benefits.

Thus, no benefit loss will occur because of a time lapse between the actual death and application since the Service form is prepared shortly after the missing report is received.

The new procedure will also serve to protect the social security benefit rights of Servicemen declared in a missing status, later found to be alive, but disabled.

DOCUMENT NO. 65



VIET-NAM

DOCUMENTS AND RESEARCH
NOTES

PUBLIC PRESENTATION
OF
U. S. PRISONERS OF WAR

VIET-NAM DOCUMENTS AND RESEARCH NOTES is issued as a research service by the United States Mission in Viet-Nam. It presents a selection of significant materials on Southern Viet Cong and Northern Vietnamese affairs. Copies of the original Vietnamese text of this captured document -- minus the deletion noted on page 4 of this NOTE -- may be obtained on request from the Minister-Counselor for Public Affairs, United States Embassy, Saigon, Viet-Nam.

August 1969.

PUBLIC PRESENTATION

OF

U.S. PRISONERS OF WAR

Background

Propagation of anti-American feeling within the population of South Viet-Nam has been an essential element in the proselyting activities of the Viet Cong. Identifying Americans as "cruel aggressors" is a constant in Viet Cong semantics and the theme runs consistently through broadcasts of Radio Hanoi and Liberation Radio, directives, training documents and basic policy papers. The document presented in this issue of Viet-Nam Documents and Research Notes reports how two captured American soldiers were put on public display by their Communist captors in order "to arouse a high degree of hatred among the masses."

The document is a Report (subtitled, 'On a Public Presentation of U.S. Prisoners of War') prepared by the Enemy/Civilian Proselyting Section of the Political Department of one zone. It describes the purposes and preparations for the event; the systematic exposure of the prisoners in circumstances calculated to induce the maximum reaction on the part of the spectators; and concludes with a closely reasoned critique of the entire operation.

The organizers of the event saw it as a means of: (1) Propagandizing victories -- ("We were victorious because we had been able to capture U.S. POWs"); (2) arousing hatred against the Americans; and (3) infusing the masses "with the spirit of fearlessly fighting and defeating the U.S." Ironically, the report declares that the exercise was designed not only "to arouse a high degree of hatred among the masses", but also "to materialize their humanitarian spirit" and to eradicate "leftist tendencies for ill-treating POWs."

Another purpose, clearly stated in the document's conclusion, was to indoctrinate the prisoners themselves ("make the POWs personally realize U.S. crimes in South VN . . .") through the staged performance.

Preparation for the exercise included careful selection and "indoctrination of two prisoners who were told what their specific duties and attitudes should be when confronting the masses."

Areas which had been devastated by enemy actions were considered ideal for the confrontation, and six sites were selected -- (1) a "site which had been sprayed with poisons"; (2) a maternity hospital; (3) a site "devastated by B-52 bombings"; (4) a cemetery for dead war heroes; (5) a school; and (6) a meeting place.

Cadres were assigned in advance for "solving the ideological problems of U.S. POWs to ensure the correct implementation of the Front's policy", and for "indoctrinating the masses and producing images, witnesses and proofs."

The carefully staged operation lasted from early afternoon until evening of one day. The prisoners were conducted to each of the selected sites where they were threatened and denounced for their "crimes." Altogether, 580 persons had been coached in their roles; their performances called for demonstrations of hatred, curbed, ostensibly, only by the Front's policy of leniency. However menacing the crowds became, the Front's representatives were able to restrain them:

Over 1,400 people participated in the several presentations which were reported to have been successful in arousing "among the masses an intense hatred of the enemy" and "creating thereby more favorable conditions for the people's movement." Moreover, valuable lessons had been learned about "using the presentation of U.S. POWs for motivating the masses in accordance with the practical situation in each local area", particularly in the event of complying with the requests of "local Party authorities who earnestly wanted more operations of the same kind in their areas."

Future "presentations" would be better if they were made at fewer and more carefully selected sites. Photography, too, should be better controlled. "Pictures had been taken at random . . . and there was lack of careful examination prior to their release for propaganda purposes. Because of that, it has been very difficult to recall a number of released pictures which have a counter-productive effect."

The document was captured in IV Corps Tactical Zone on December 31, 1968, by a unit of the 21st RVN Infantry Division.

Political Department of the Mien (Zone)
Enemy/Civilian Proselyting Section

Document No. 65
August 1969.

R E P O R T

On A Public Presentation of U.S. Prisoners of War

-o-

I/ Significance:

To make a rational use of POW's during their detention [period], the Political Department of Mien [Zone] had, for the first time and in coordination with the Military Proselyting Section of the Region, organized meetings during which U.S. POW's were publicly presented to the masses with a view to propagandizing our military victories and motivating the masses' hatred of the Americans and readiness to fight any American move in the Western Zone [of South VN's delta].

On the occasion of the 20 July Anniversary [signing of the Geneva Agreement] the specialized organ had, along with the "Mieu Te" local authorities, organized meetings for propagandizing [our] victories scored during the winter-spring period and celebrating the 20 July Anniversary in the liberated areas, in coordination with the release of puppet POW's held in Can Tho municipality, from which experience should be drawn for further exploitation of U.S. POW's.

II/ Objective and Requirements:

Concerning our side:

- To use live examples (American POW's) and real facts for presentation to the masses in public meetings with a view to propagandize our victories (we were victorious because we had been able to capture U.S. POW's) and enable our armed forces and people to know the Americans concretely and be prepared to fight them if they come to the Western zone [of the SVN delta].

- To play up the Front's policy toward U.S. and satellite troops; to arouse a high degree of hatred among the masses while inducing them to materialize their humanitarian spirit and correctly implement the Front's policy.

- To educate the masses to infuse them with the spirit of "fearlessly fighting and defeating the U.S."; but concurrently, to prevent them from entertaining either such rightist thoughts as: fear of Americans, misplaced pity for American POW's, or leftist tendencies for ill-treating POW's and violating the Front's policy [toward POW's].

Concerning the POW's:

- To use real facts to support our arguments and make the POW's realize the crimes in which they had been directly involved.

- To make them [the POW's] realize the strength of the people's war, the hatred and fighting determination of our people which no enemy force can subdue.

- To make them [the POW's] realize the humanitarian spirit of our people who are ready to forgive the crimes of enemy troops once they surrender and express confidence in the Front's policy.

- To free the POW's from the effects of enemy political indoctrination; to destroy their haughty and self-conceited feeling that Americans are second to none, that they should never harm U.S. honor and that they are superior people who had come here to dispense favors.

III/ Subject matter:

1. Preparatory steps:

- With a view to using them we carefully studied [two] U.S. POWs . . . *

- We had provided several indoctrination courses to the above-mentioned POW's including 5 main courses combined with other complementary courses.

- We noted that [following the indoctrination] these POW's have realized the just cause of our Revolution and the injustice of the U.S.-waged war in South VN. We had told them their specific duties and attitude when confronting the masses.

Concerning sites and sceneries:

- Were selected as targets, areas which had been devastated by enemy actions, where the people's movement was strong and where the people have been taught the Front's policy toward U.S. and puppet surrenderers or POW's.

- The following six sites, each having a different scenery, subject matter and significance, were chosen:

1) a site which had been sprayed with poisons; 2) a maternity hospital; 3) a site devastated by B. 52 [bombings]; 4) a cemetery for dead war heroes; 5) a school; and 6) a meeting place.

- Crime denouncing witnesses, concrete proof and marks of U.S. bombings and shelling were produced.

- Sites were decked with appropriate banderols and leaflets.

- Preparations were made both at the main and secondary sites, contact was made at each site with the local security section which was assigned the task of keeping a close watch on undesirable elements susceptible of sabotaging our activities and tightly controlling participants to the meetings which were kept secret until the last minute.

Coordination and work assignment:

1/- Specialized cadres included: one cadre of A5-T520 responsible for overall operation during the exhibit; one cadre of the military proselyting armed propaganda section; and 3 cadres of the foreign language schools (of Ca Mau, Rach Gia and Soc Trang).

2/- Local cadres included: one District Party Committee cadre responsible for coordinating operation plans with the cadre of A5-T520 and forwarding them to Khanh Hung and Chi Hon Party Chapters.

One Propaganda-Training cadre of U1 (comrade Sau Lien) was in charge of following up developments [of the presentation], taking pictures for propaganda use and drawing experience [good or bad points] for report to the Organizing Committee of the exhibit.

Specialized cadres [military proselyting and enemy proselyting cadres] were responsible for conducting and following up activities, making corrections requested by higher echelons, solving ideological problems of U.S. POW's to ensure the correct implementation of the [Front's] policy, insuring security by readying combat plans, taking preventive measures against [such deficiencies as] lack of vigilance, subjectivism, negligence, security leak; and drawing experience of the overall operation.

*The names of the two captured American personnel and their organizations have been deleted at this point to protect the individuals.

Local cadres were responsible for indoctrinating the masses, producing images, witnesses, proofs at the site, and ensuring security before, during and after the presentation.

2. Realization:

The operation started on 14 July 1967, at 1:30 p. m. and ended the same day, at 8:00 p. m.

Following are developments at each site:

[At the 1st site] - When the boat carrying the U.S. POW's passed by the site which had been subjected to enemy spraying of toxic chemicals, it was summoned by the compatriots to stop for control. Seeing the two U.S. POW's, the compatriots shouted: "We have got two Americans!" Where upon, 7 compatriots, including a 60-year-old woman, armed with knives and axes, jumped into the canal and walked through the water to the boat, while the other people stayed on the canal's bank, displaying a very angered attitude and unceasingly shouting anti-U.S. words. Realizing the people's hostile attitude, the two U.S. POW's, turning pale and trembling with fear, asked the translator for help. At this moment the Front's Local representative intervened to calm down the compatriots. Only then the 2 U.S. POW's regained their composure and begged the Front's representative: "Please prevent the people from killing us, otherwise, we dare not go ashore!"

Once the POW's went ashore, the compatriots showed them plants killed by defoliants, fragments of U.S. bombs and bullets, denounced U.S. crimes and angrily shouted insults at the U.S. POW's. The 2 U.S. POW's acknowledged their crimes, bowed their heads like two gorillas caught by the rain.

[At the 2nd site] - This site was adequately decorated. There were two witnesses of an enemy naval shelling occurring on 12 July 1967. An old woman said loudly:

"You! Look at my child's leg! Who had shot at him? Even with your guns, your shells and toxic chemicals, you can never win, you will surely meet with death."

[At the 3rd site] - A ceremony was held aiming at stirring up the people's hatred of B-52's ravages. Attending were dependents of victims of B-52's bombings and a family which had suffered two dead and one wounded.

Brother 3 Ngay said that he had intended to kill any American on sight but, following the indoctrination course on the Front's policy [toward POW's] he could restrain himself despite the fact that his anger could never be cooled.

Following the people's denunciation of U.S. crimes, a peasant told the U.S. POW's: "You should have been chopped into pieces for your crimes had the Front not advocated a policy [of leniency]. If lenient measures are granted to you, you should make [the world] people know that the U.S. and VN peoples are not enemies, you should demand the repatriation and withdrawal of U.S. troops, the end of U.S. interference into VN's internal affairs which should be solved by the VN people themselves."

[At the 4th site] - At a cemetery for war heroes, the U.S. POW's had been indoctrinated on the VN people's respect and love for those who had made the sacrifice of their lives in the Anti-U.S. Struggle for National Salvation, a tradition similar to the U.S. people's respect for their burying grounds.

[At the 5th site] - The 5th site was a school of Economics and Industry where an indoctrination course on the people's Guerrilla warfare movement was given in late afternoon to peasants when they returned home after a day of happy, peaceful

and collective work in the fields, holding in one hand their weapons and in the other hand, their scythes. Nearby, there was a group of children on their way to school. When informed of the U.S. POW's presence, everybody showed an angry attitude. One 10-year-old child asked for permission to meet the POW's and, when he saw them he dealt a blow at a U.S. POW and said: "You, savage killers of my father!" At the same time, anti-U.S. shouts resounded all around.

[At the 6th site] - [The presentation was made] at a place of meeting where the local people, being initiated and motivated before hand, showed an enthusiastic and cheerful spirit, they unceasingly and excitingly discussed about our success.

3. Evaluation of results:

Indoctrination had been provided to:

- Cadres of various local branches	52
- Guerrillas	9
- Civilian people	447
- Children	72
Total:	580

Number of participants at various sites:

Target of defoliation	120
Maternity hospital	100
Hate - B: 52 site	88
School	150
Meeting	950
Total:	1,408

Concerning our side: We were able to:

- Publicize throughout the zone the victories scored by our armed forces and people, making the masses very joyful and enthusiastic (as proven by shouts hailing our army and people's victories, anti-U.S. shouts; the great number of people riding their boats to come to the meeting).

- Arouse among the masses an intense hatred of the enemy and, at the same time, combat the "fear American" feeling through reasoning and a study of practical facts.

- Widely disseminate among the masses the Front's policy toward U.S. and Satellite troops.

Besides, Party Branches in various localities have been conducting activities connected with the presentation of U.S. POW's, creating thereby more favorable conditions for the people's movement.

Concerning the POW's:

We were able to:

- make the POW's personally realize U.S. crimes in South VN through cognition and reasoning.

- make them [the POW's] realize the heroic fighting will and the aspirations of the VN people whose extreme hatred of the U.S. pirates can never be overcome by any force or weapon.

- make them see our people's confidence in the Front.

- develop and highlight our policy toward U.S. and satellite troops; and record satisfactory results in this "presentation of U.S. POW's" operation, as far as objective and requirements set forth by higher echelons were concerned.

4. Experience drawn: good points and deficiencies.

Good points:

1/- We had been able to use technical work to serve political and military objectives, using the "presentation of U.S. POW's" operation for motivating the masses in accordance with the practical situation in each local area.

2/- Owing to its [good] effect on the phase [of popular motivation] this [presentation of U.S. POW's] operation has been wholeheartedly supported by local Party authorities who earnestly wanted more operations of the same kind in their areas.

3/- The masses have been motivated to carefully study and thoroughly understand our policy in such a way they nurtured an intense hatred of the enemy but still comply with our policy [toward U.S. POW's].

4/- Good indoctrination had been provided to U.S. POW's through education, reasoning combined with a scientific [exploitation] of practical [facts].

Deficiencies:

1). Deficiency in organizing and arranging typical sceneries: too many images were evoked in a short period of time resulting in a lack of concentration on the main objectives and requirements. Besides, some selected sites needed not to be shown to the POW's such as: the cemetery and the maternity hospital.

Since the [released] U.S. POW's would be sent, not to the rural areas as in the case of puppet troops, but to their [U.S.] native country, it is not necessary to make propaganda on our rural areas and rural policies. We should instead concentrate our propaganda on the people's hatred and the strength of the people's war.

2). Pictures had been taken at random without any [pre-determined] theme and there was lack of a careful examination prior to their release for propaganda purposes. Because of that, it has been very difficult to recall a number of released pictures which have a counter-productive effect.

14 July 1967
A5 - T 520

Facsimile

Page One of the Vietnamese Original

Document No. 65

PHONG CHINH TO:
MIEN!
Ban dân định vận

BẢN BÁO CÁO VỀ CUỘC TRIỂN LÃM
TỦ BÍNH KỲ

• 0 •

I/- Y NGHĨA:

- Để sử dụng đúng mức số tù binh trong quá trình giao tiếp, lần đầu tiên Phòng chính trị kết hợp với Ban binh vận Khu. Tiến hành tổ chức một tỉnh, triển lãm tù binh Mỹ để tuyên truyền từng chiến thắng và phát động quần chúng cầm thù Mỹ và đấu tranh đánh Mỹ xuống miền Tây.

- Nhân ngày kỷ niệm 20/7 có quan chuyên môn cùng với địa phương mời Tổ tổ chức một tỉnh tuyên truyền từng chiến thắng Đông-Kuân và kỷ niệm 20/7 tại vùng giải phóng kết hợp với đợt thả tù binh NGUYỄN tại thị xã Cần Thơ để rút kinh nghiệm và dụng tù binh Mỹ.

II/- MỤC ĐÍCH YÊU CẦU:

Về tư tưởng:
- Dùng người thật việc thật (T.B. Mỹ) để triển lãm một tỉnh tuyên truyền từng chiến thắng của ta (giao thắng mới bắt được Mỹ) làm cho quần dân ta biết Mỹ, cách cụ thể để sẵn sàng đánh Mỹ xuống miền Tây.
- Phát huy chính sách của Mặt trận đối với Bình cứ (Mỹ và quân đội chủ huy, phát động cầm thù cao độ trong quần đại quần chúng nhưng thể hiện được lòng nhân đạo và nghiêm chỉnh chấp hành chính sách của Mặt trận.

- Giáo dục quần chúng có tư tưởng dám đánh Mỹ và thắng Mỹ nhưng cũng đề phòng hủ kỵ sợ Mỹ hoặc bị lạc lỏng thường hại qua thái độ của Tủ Bình Kỳ xong xong cũng đề phòng kẻ lừa dối đánh lừa Tủ Bình vì phạm chính sách.

Về tư tưởng:
- Lấy thực tế để củng cố thêm về nhận thức lý luận nhằm làm cho Tủ Bình thấy được tội ác mà chính chúng là những người đã trực tiếp những tay vào.

- Làm cho chúng thấy được sức mạnh của cuộc chiến tranh nhân dân lòng căm thù và ý chí chiến đấu của Nhân dân ta không một sức mạnh nào của kẻ thù có thể đàn áp được.

- Làm chúng tái thấy được lòng nhân đạo của dân tộc ta sẵn sàng tha thứ tội khi kẻ địch đầu hàng và tin tưởng vào chính sách của Mặt trận.

- Giải rõ những lối chính trị nhô, sợ, để phủ lòng tượng tự phụ không chịu thấy kẻ gì không làm mất danh dự của Mỹ và có thể, chúng cho chúng là kẻ bề trên dân ở bên dưới.

RADIO SCORES U.S. FOR NEGLECTING COMMITMENTS

HANOI IN VIETNAMESE TO VIETNAM 1430 GMT 15 APR 76 OW

Unattributed commentary—"The U.S. Secretary of State again continues to deceive public opinion."

The Vietnamese response to Secretary Kissinger's March 28, 1976 offer to begin talks has not been made public by the Department of State. The Vietnamese newspaper Nhan Dan, recognized as an official organ of the government, provided what is generally understood to be an accurate reflection of the official Vietnamese response to Dr. Kissinger's offer. The following commentary appeared in Nhan Dan and was broadcast over Radio Hanoi on April 16, 1976. (Courtesy of FBIS).

Recently, U.S. Secretary of State Kissinger sent a note to Foreign Minister Nguyen Duy Trinh. Replying to this note, Minister Nguyen Duy Trinh affirmed our stand, namely that we are ready to hold negotiations with the U.S. side to settle at an early date the remaining questions relating to Vietnam and the United States as provided for by the Paris agreement on Vietnam—questions like a U.S. contribution to healing the wounds of war and postwar reconstruction in both zones of Vietnam, the search for Americans missing in action, and the exhumation and repatriation of the bones of deceased Americans. On this basis, the DRV will normalize relations with the United States in accordance with article 22 of the Paris agreement.

The matter is as clear as this. Yet, U.S. Secretary of State Kissinger continues his slanderous allegations against the DRV and tries to shirk all the responsibilities of the U.S. side. He still stubbornly demands that we implement article 8B of the Paris agreement concerning the search for Americans missing in action. This is quite a strange attitude. Can it be that the U.S. Secretary of State is unable to see the glaring lack of logic in the United States continuing to demand that Vietnam implement another provision of the Paris agreement while disregarding its commitment and the legality of the Paris agreement and deliberately trying to evade its blood debt toward the Vietnamese people after waging a fierce and cruel war that ravaged Vietnam. Yet this U.S. commitment was not just oral but was written in black and white. The U.S. president's 30 January 1973 message to the DRV premier says the following:

1. The U.S. Government will contribute to the postwar reconstruction in North Vietnam without any political conditions whatsoever.

2. U.S. preliminary studies show that programs appropriate for a U.S. contribution to the aforementioned postwar reconstruction will amount to about \$3.35 billion in nonrefundable aid for a period of 5 years. The two sides will agree upon other forms of aid. This estimate will be reexamined and discussed in detail by the U.S. and DRV governments.

Thus, it is as clear as broad daylight that the United States has swallowed its promise and dodged its responsibilities. Yet, the United States stubbornly demands that Vietnam carry out its requests. It continues to arrogantly slander and even use impolite words toward the DRV Government.

What was the United States aiming at when it took advantage of an exchange of diplomatic notes—a routine diplomatic affair—to play up its goodwill? As everyone knows, the presidential election campaign is entering a decisive stage in which many sensational events will occur, and incumbent President Ford and his team are seeking by all means to win over U.S. voters and defeat their opponents. There is no better way to achieve this than to display U.S. goodwill before U.S. public opinion and to place all the blame on Vietnam for having created obstacles to solving the remaining problems involving Vietnam and the United States and to normalizing relations between the United States and Vietnam.

Obviously, Kissinger is scheming to insure that Ford will obtain the support of the most reactionary forces in the United States and win the votes of U.S. voters who blindly believe in the goodwill of Ford-Kissinger and company and its readiness to look to the future. This evil act and attitude of the Ford-Kissinger administration evident in this trick of exchanging diplomatic notes again proves that it stubbornly sticks to its outmoded hostile policy and line toward the Vietnamese Government and people. Obviously, it still does not want to normalize relations with Vietnam and is continuing to counter aspirations of the American people—including many people in U.S. political and business circles—and the immediate and long-range interests of the United States.

If the Ford-Kissinger administration really wants to normalize relations between the two countries, it needs to adopt an attitude as correct and good-willed as Vietnam's. It should prove this by practical actions, abandon its schemes to create difficulties for the Vietnamese people, end its hostile acts and attitudes toward Vietnam and correctly implement article 21 of the Paris agreement on Vietnam.

NHAN DAN QUOTES NIXON ON POSTWAR AID

HANOI VNA IN ENGLISH 0722 GMT 16 APR. 76 OW

Hanoi VNA April 16—Under the title "Irrefutable Evidence," the leading Hanoi paper today quotes former U.S. President R. Nixon as saying in a message to the premier of the Democratic Republic of Vietnam on February 1, 1973 that "the Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions."

"Recently, U.S. Secretary of State Henry Kissinger also sent a note to DRV Foreign Minister Nguyen Duy Trinh declaring that the United States would 'look to the future' in its relations with Vietnam," the paper further recalls.

"But [it] is clear," NHAN DAN continues, "that the U.S. Government has never proved its professed goodwill by concrete deeds, whereas the DRV Government has never changed in its stand on the normalization of the relations between Vietnam and the United States. Our good faith has time and again been proved by concrete actions warmly hailed by broad sections of the public in the United States including knowledgeable, well-meaning people in political circles. The DRV foreign minister recently made a reply to a note from the U.S. Secretary of State, reaffirming Vietnam's stand that the DRV Government is willing to discuss with the Government of the United States an early settlement of the outstanding problems relating to Vietnam and the United States after the war in accordance with the provisions of the Paris agreement on Vietnam, such as the U.S. contribution to the healing of the wounds of war and the postwar reconstruction in the two zones of Vietnam; the search for information about U.S. MIA's; the exhumation and repatriation of the remains of dead Americans, etc. . . ."

"On this basis, the Democratic Republic of Vietnam will normalize its relations with the United States in the spirit of article 22 of the Paris agreement on Vietnam. The DRV foreign minister also asked the U.S. side to show its goodwill by concrete deeds and stated that the DRV Government is prepared to consider specific proposals of the U.S. Government."

Nhan Dan remarks, "But the Ford-Kissinger administration has failed to produce any concrete proposal. The only aim of the noisy diplomatic ploy and public campaign currently conducted by the U.S. authorities is the presidential elections this year. Indeed, the Ford administration has not seriously responded to the note of the DRV foreign minister. Instead, it has taken advantage of the exchange of notes and given it a false interpretation. Henry Kissinger recently irresponsibly told the Senate Appropriations Subcommittee on Foreign Operations that North Vietnam had responded to a U.S. proposal for talks, but with a request for U.S. aid. He said: 'We do not accept that we have a commitment for aid arising from the 1973 Paris accords.' What he implied was that progress was being made in the normalization of the relations between the United States and Vietnam thanks to the initiative of the Ford administration, and that the latter was absolved from its obligation under article 21 of the Paris agreement."

The paper points out: "Truth is truth. Richard Nixon, in his capacity as the then president of the United States, on February 1, 1973 sent a message to the prime minister of the Democratic Republic of Vietnam, saying notably,

"1. The Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions.

"2. Preliminary United States studies indicate that the appropriate programs will fall in the range of \$3.25 billion of grant aid over 5 years. Other forms of aid will be agreed upon between the two parties."

Nhan Dan stresses that this is a formal agreement of the U.S. Government, done in writing by the then president of the United States.

It states in conclusion, "The people and the government of Vietnam are willing to look to the future; we are willing to normalize our relations with the United States. But we will not accept a normalization achieved abnormally by means of deceit and a breach of confidence on the part of the United States. The path

to the future can only be safe when the United States draws a right conclusion from its past in Vietnam. The U.S. authorities have made a war of aggression on Vietnam, causing heavy destruction and great mourning to the Vietnamese people. The present administration, if it really represents the honour and legitimate interests of the United States, must not shirk its responsibility for the healing of the wounds of war in Vietnam and the rebuilding of this country from the ruins caused by U.S. explosives."

QUESTIONS SUBMITTED TO EMMA M. HAGERMAN BY THE SELECT COMMITTEE

Q. What kind of an accounting would be acceptable to you—remains information, an explanation by North Vietnam?

A. I feel remains, of course, would be acceptable. Information would be acceptable to me only, if verified by a third neutral party such as the International Red Cross, the Refugee Committee of the Vatican, or a committee of western nation members.

Q. You mentioned that your husband's status has affected your family emotionally. Can you give us some idea of the type of emotional problems involved here?

A. Initially the emotions of my children were total grief at the loss of their father. After time passed each son had a different approach to the problem which often caused heated discussions among the five of us. The eldest suggested that we never accept a change of status until there was positive information of the above mentioned kind. He suggested that should I want my freedom at any time that a divorce was in order rather than asking for a change of status. My second son never cared to discuss his father at all. After the initial grieving period he never mentioned his father's name again. If the discussion of the shootdown came up he would leave the room or the house. It was at least six years before he would take part in any discussion involving his father. My third son has always wanted to know what happened. He took it upon himself to talk to attorneys regarding his father's case and initially did so without discussing it with me. We came to an agreement about his thinking and solved our problem which was not without considerable heartbreak for my son and for me. The fourth son has always maintained that his father died on the shootdown day and that after all these years it was time to lay him to his final rest. The four boys' opinions have been very strong, emotion-charged, and each with considerable merit. I am glad that we have always been a close family and could resolve our thinking with regard to their father, and to remain a close family unit.

Q. You referred to some legal hassles which developed in Washington State. Can you briefly tell us what these involved?

A. One case, that of a Navy commander MIA involved his estate settlement. He had children, by a former marriage, living out of state. His wife died a couple of years ago. The second marriage was childless. Her family lived out of state also. Washington has many unusual laws, among them the fact that an executor of a will must reside in the county where the will was executed. The designated executor lived out of state and with local legal restrictions the children of the Commander were hard pressed to take even the smallest personal memento of their father out of the house.

The other case involves an MIA, married, and childless. The wife of the MIA was en route to attend the 75th birthday of the MIA's father when she was killed in a highway accident. The father-in-law (MIA's father) had been named executor of her estate. The same rules applied as the above as well as a law suit determining who preceded whom in death, especially when some parties found out that there was a great deal of money involved. The case has been in and out of court for several years and I am not sure at this time if it has ever been resolved. (In addition to being executor for his daughter-in-law's estate the MIA father then had become the primary next of kin.)

Q. You said the National League of Families does not represent your feelings or the feelings of many next-of-kin at this time? In what way do you differ?

A. I agree with them in that there is a strong need for an accounting so that this problem may be resolved. Where I disagree is that I do not approve of a group of people who are not privy to intelligence reports or classified State Department documents telling the United States what policy to pursue in this matter. For example advising the Congress in matters of monetary appropriations, foreign policy, arms sales and controls, and so forth. This area is solely the responsibility of our elected government officials, the President and his cabinet.

Among other things, I cannot go along with making the enemy of the MIAs the United States government instead of the North Vietnamese. The North Vietnamese advised us years ago, via Madame Binh, North Vietnamese officials in Paris, and the Committee of Liaison headed by Cora Weiss that it was up to us to speak out against our own government whom they considered responsible for the entire tragedy. I cannot turn my back on my country even if it means finding out what happened to my husband. He certainly would not admire me for such an action.

Q. Are there any differences in family feelings or experience based on age, career service, length of service or other factors?

A. I do believe that service families, career families and those who have spent many years serving their country are much more receptive to problem solving on the basis of logic. The non-military oriented civilians who are next-of-kin, I believe, have been so shattered by many of the recently disclosed shenanigans of some Congressmen, the Watergate situation, and general suspicion of the military that it is very difficult to apply logic.

Q. You have praised the Air Force Casualty officials handling of your case. Can you give some examples of what they did to assist you throughout your ordeal?

A. The most important thing they accomplished was to instill a feeling of complete confidence in their ability to give total attention to the work at hand. They were available 24 hours a day and installed an emergency toll free number so that we could reach them with whatever was bothering us. One incident in particular . . . was the year that my father became terminally ill. We had exhausted all possibilities of private care for him and had to find a full care facility which could take his case. My father was a World War I veteran and when I asked the Casualty office for advice and assistance they put a casualty officer in Illinois on the job and my father was admitted to a Veterans Hospital. I was not too aware of the rights and privileges of the WWI veterans. He was placed in a hospital close to the homes of my sisters who were able to visit him on a daily basis. This was indeed a comfort to me, especially when I live 2500 miles from my family home.

This question was asked in the committee hearing and the answer remains the same. I feel, in addition, this is a psychological burden which I could not bear.

Q. Have you ever felt any pressure to ask for a case review?

A. Never.

This question was asked at the hearing and the answer is the same.

Q. Would you object to members of the Casualty Branch serving on a Review Board.

A. I would not object to Casualty Branch members serving on a Board for my husband if these members were known to me. I would not want someone on the Board who had been recently assigned to the office. I do not think that they would have preconceived opinions, but I can't be sure. Some possibly would.

Q. In your capacity as an official in the National League of Families having long experience working with MIA wives and parents, can you tell us what principal motivations keep your members interested and active?

A. I think that most of the families have a genuine desire for an accounting which through the years has become an obsession. This is understandable since no one is ever prepared for the death of a loved one. When there are no remains it is extremely difficult to accept death when the coffin is empty. I also think that a very few people have made MIA a career and with the resolution of the problem they will find themselves wanting for a public identity.

Q. I am sure there must have been many frustrations for you and your associates during the past several years. Would you care to tell us of your major criticisms and provide us with your recommendations on how State and Defense might do better in the future?

A. My primary criticism is that no one will assume responsibility for this situation and the buck is passed back and forth between State and DOD and dumped on the Congress and from there God only knows. I have a horrible suspicion that this whole thing will go nowhere and everyone in the government structure will hope that the families will tire of the whole mess and request changes. This way no political party can be blamed, no federal department can be blamed and no politician can be pointed at as the "status change culprit".

My second criticism is that Henry Kissinger told several of us at San Clemente a couple of years ago that the North Vietnamese would never abide by the Geneva treaty because there were no Articles of Enforcement. It truly causes me to

wonder what made Henry Kissinger agree to the Cease Fire Treaty, with no way of enforcing any of the provisions when he knew and was convinced that the N. Viets would not abide by a treaty which had no teeth in it. I have long been of the opinion that the Cease Fire Treaty was written not to stop the fighting in Vietnam, but to bring peace to the streets of America because of the violence caused by the dissenters regarding their feelings about the war.

In the future I would like to see some time limit placed on how long a man can be carried MIA, even if it is by virtue of special presidential powers. I am concerned about our young men and women and the fact that we manage to have at least one year per generation. (This is the third war in my generation.) Historically MIA cases were wrapped from one year to 18 months after the end of a war.

We are locked into an untenable situation which it seems to me, can be resolved by laws presently on the books. It would seem to me that if the Congress did a little "housekeeping" legislating it would help. The special executive powers granted Roosevelt, Truman, and Nixon could be removed from the books. Some of the MIA problem can be laid to those special presidential powers granted Nixon. There would then be no legal reason for not invoking the "absent a year and a day from duty" regulations of the Department of Defense.

DEAR DR. KENNY: Enclosed are the items of interest you requested on the Kengkok incident. The Sgt Gerry Wilson mentioned is SFC Gerry (pronounced Gary) Wilson who was my assistant, and the only other U.S. Army man under my control. As you can imagine, it is quite unlikely that he and I could have launched a successful operation to rescue anyone. We performed the normal Attache functions of observing and reporting, attempting to act as advisors to the Royal Lao Army when advice was requested or obviously needed. Willson was reassigned to the 1st Infantry Division, Ft Riley, Kansas, but I don't know if he is still there or has moved to another assignment.

Les Chopard was associated with Christian Missions in Many Lands, Incorporated, P.O. Box 13, Spring Lake, New Jersey 07762. As I seem to recall, his report was so thorough and accurate that I never attempted to render an official after-action report through Attache channels. He did render us the courtesy of asking the Embassy to review it for sensitive items before he published it.

My assistance to Rev. Chopard amounted to an open door in my house through which he passed frequently to share information and use the telephone to Vientiane. I also allowed him to accompany me on several helicopter trips to the Kengkok area. A helicopter, normally controlled by the Attache in Vientiane, was loaned to me on a priority basis during the period when the fates of these U.S. citizens were in question.

I never met Rev. Lindstrom, but I have read several newspaper reports attributed to him, including one in a Florida newspaper which attributed an alleged rescue plan to me, which was allegedly "blocked by Embassy officials."

It is possible that in commiserating with the missionaries SFC Wilson or I may have uttered a wistful desire that we could attempt a rescue, but I feel certain we never misled them to the extent that they would have considered such a remark as representative of serious intent. Although we wore the U.S. Army uniform publicly during our daily duties, the presence of U.S. military personnel in Laos was a bit sensitive. A captured Attache, or one KIA would have certainly been an embarrassment, hence we were forbidden by the Attache in Vientiane from being on the ground in an area where there were troops in contact with the enemy.

I hope this is of use to you and the committee.

Respectfully,

NORMAN M. VAUGHN, Jr.,

Lt. Col., USA,

Executive Officer,

Directorate for Intelligence.

KENGGOK REPORT—LES CHOPARD

This is an effort to put into writing the events which we experienced and the news we have pieced together from some of the reports we have received from all sources. You must appreciate that in a situation as confused as this every conceivable story has surfaced. We have tried to use discretion—qualified by 15 years of experience in Laos, a knowledge of the Lao language and culture, etc.—in sorting out, evaluating, and tempering the many reports which have been brought to our attention. Some of the things in this preliminary report are impossible to confirm, but we are reporting only material from sources which we feel are totally reliable. Most from eyewitness reports from our Christian friends in Kengkok, many of whom risked their lives repeatedly to identify themselves with and assist those who were captured.

On Saturday morning, Oct. 28, 1972, Emma and I awakened very early, and got up about 5 a.m. We were both having morning devotions when at 5:40 a.m. we heard a short burst of automatic weapon fire. It sounded particularly close but after hearing the Lao military shoot at the moon, suspected spirits, birds or even in an attempt to get fish, we didn't get alarmed. About 7 minutes later there was the noise of a loud report which we thought to be the firing of a 105 mm howitzer. We later learned this was a grenade. Apart from another short burst of automatic weapon fire at about 8:40 there was no other shooting.

At about 5:55 two of our Lao Christian men began shouting at us from the road in front of our house. They very excitedly informed us that there were a number of North Vietnamese troops in the market (#4) side of town and that we should immediately cross the lagoon south of our house and wait there for developments. We were reticent to leave before knowing the situation of our colleagues, but they were insistent. We had no communication possibility with either of the other two houses. After discussion with a few more who had gathered at our house to alert us, we felt we had to respect their judgment and acquiesced to their suggestion. We sent one of our trusted Christian men to alert O.B. Hospital (#5) personnel—who routed them all out of bed—and were paddled across the lagoon in a dugout boat.

Quite a number of Kengkok residents were evacuating at the same time by the same route so we got behind the first screen of trees and questioned the villagers as they arrived. We got conflicting reports of the number of insurgent troops but decided that there were not too many at first. They were reported as reconnoitering, checking Kengkok's defense. This was non-existent, there were but three military in town for recruitment purposes. Huddled with 2 or 3 responsible Lao we decided that there couldn't be more than say 15 doing this street by street search. It was later told to us that 10 or 15 minutes after we left they were at our house looking for us.

While waiting near the lagoon for news of, or the appearance of our fellow-workers we were told that the entire O.B. hospital staff were south of us so we moved back to join them. We did this at about 8:30. They have radio communication with the border town of Savannakhet, and had immediately radioed for help. At about 9 a.m. a helicopter—sent by U.S. Aid—arrived and evacuated the 9 Filipinos, 5 Lao, Emma and me. We flew to Savannakhet, unloaded the passengers, then after a short debriefing, Sgt. Gerry Wilson and I flew back to the Kengkok region in a helicopter to try to find the missing four missionaries. First we circled the fellows' house (#3) in an effort to determine if their little pick-up was parked underneath as it normally is. This way we would know if we were looking for people on foot or a vehicle. Inasmuch as there would be no unfriendly aircraft in the air we were sure that if they were hiding somewhere they would attempt to signal us.

Since we circled from quite high it was impossible to determine positively if the car was there or not. We didn't think it was. Consequently, we worked the roads, checking villages and houses of Christians that these fellows would know from the few trips out with me that they had made. This was also fruitless. After considerable time we returned to the Kengkok region to see if we could spot their pick-up in town. We soon located it in front of Maj. Boon Tang's house (#7). We have since learned what happened. They were alerted of the invasion and

asked their villagers what to do. Unhappily, they must not have been able to contact the more responsible ones and were simply told to do what they felt best. They apparently decided to try to get to our house, (#1) which means they would have to cross the entire town. (Previously discussed evacuation plans had mentioned an air pick-up in our part of town.) As soon as they rounded the first corner they ran directly into the opposing forces which fired a burst in front of the vehicle to make them stop. This was that first sound we heard that morning, so the fellows were captured before we knew anything was wrong. They were tied up and guarded alongside the fence at the point of capture. Later that evening—Sat. 7:00 p.m.—they were placed in a commandeered truck and driven to a village some ten miles northwest of Kengkok, ostensibly to be viewed by the commander of the enemy troops. Villagers have reported seeing them a few times since as they were moved to other locations to the northwest, generally in the direction of North Vietnam. Neither of the fellows were injured at the time of capture. It is reported that they are marching barefoot, since their shoes were taken away from them by their captors.

I immediately offered to go back into the Kengkok area on foot alone if I could be placed down outside of town. At this time no factual information was in hand; the above account was determined later. My offer was kindly rejected as being too risky in comparison to likely benefit of such an attempt. My first thought was that I knew the area like no one else—who lived in what house, etc.—and with a knowledge of Lao I could get some factual information. One can only speculate as to how much value that might have been. One must add, that every possible effort was being made by everyone to guarantee the safety and secure the release of the four.

Saturday afternoon I flew over Kengkok again to try to run down some rumors that we had heard and to observe what I could that might be of assistance in determining the fate of our four co-workers. On Sunday, Oct. 29th I was able to make two helicopter trips back to Kengkok and the surrounding area with the U.S. Army Attache to see if we could observe anything of significance. Lt. Col. Norman Vaughn has been tremendously helpful and considerate throughout the endless ordeal. We could see a lot of enemy troops moving around all over Kengkok and the village to the northwest, all of whom seem totally worried by our presence. They were certainly convinced that we weren't going to do anything to them. Many were digging trenches and bunkers, some were carrying logs, apparently with the same intent. Quite a number of the troops which invaded Kengkok were unquestionably Vietnamese, some were Pathet Lao and some were seemingly, Lao tribal people from the extreme northeast region. All the early arrivals were dressed in new black shirts and pants, were barefoot and very young. Many of the Vietnamese spoke Lao to some extent. Kengkok refugees said that large reinforcements arrived about 9:30 Saturday morning, with a figure of between 400 and 500 given. We question that there were ever that many enemy in Kengkok.

Kengkok being a very strategic political prize—a large number of high political and military figures are from there, including the deputy prime minister—a counter offensive was immediately mounted to retake the town. From the beginning the enemy motive was clear. With a cease fire anticipated in the foreseeable future, the other side wanted to be in control of as much territory as possible at the time of the signing in order to use that as a jumping off point in future negotiations.

On Monday it was reported to us that some of our Christian men had sought to bargain with the insurgent forces for the release of the girls. Kengkok evacuees reported that they would be released for a ransom of 500,000 kip (\$800) and that they were going to try to negotiate it. An offer was made, with a Kengkok Christian schoolteacher writing and signing a letter of intent that he would personally guarantee any amount for the safe release of the two girls. Hearing this, a U.S. Aid fellow and I flew down to the area south of Kengkok to seek information and pick up the girls if they had been released. Heavy fighting was going on in Kengkok at this time but our two stops just south of town—one as close as three miles—ended in disappointment. We talked to a number of the Kengkok people, and in the closest in stop to Kengkok the heroic school teacher himself, but he lamented that the offer had been rejected. They told us that enemy troops had used the road on which our helicopter was setting, to move troops during the previous night so they were fearful of our safety and hurried us away.

Of all the facets of the Kengkok story, that regarding Bea and Ev was the most confused and the last resolved. Now we know what happened, but we were some time getting the facts. The girls were immediately informed of the situation that was swirling around their house. Since their corner of town was where the invading troops entered Kengkok there was apparently no possibility of escape. Though we had heard before we were airlifted out of the Kengkok region at 9 that Saturday morning that the girls were already captured, this was not the case.

Realizing the impossibility of escape, the girls showed great presence of mind in hiding in their home and remaining very quiet. They remained in the front two bedrooms which could not be looked into under ordinary circumstances. We were told that when the invaders asked about the house they were told it belonged to a school teacher who had gone to the border town of Savannakhet. Their hiding out was successful from Saturday morning until sometime early Monday, Oct. 30. Why they decided to do it we don't know but the N.V.A. soldiers took a long ladder, leaned it against the wall of Ev's bedroom, and peered inside. At least one of our Christian men visited the girls on Monday, seeking to be of comfort and trying to bargain for their release. He was so persistent that the N.V.A. bound him from 7 a.m. to 3 p.m. before allowing him to go.

There was heavy fighting in Kengkok from about noon Monday Oct. 30 until noon Thursday, Nov. 2d when the town was pronounced secure. An inspection team going in on Thursday afternoon discovered the badly burned bodies of the girls in the burnt remains of a house just across the street from their own rented house. About a week after the enemy troops had been driven from Kengkok, a North Vietnamese soldier, who had been in Kengkok, was taken prisoner. He stated that he had seen Bea and Evelyn in at least two occasions during the time they were held captive. According to his accounts, the girls were executed by North Vietnamese soldiers using captured American-made M 16 rifles and their bodies were left in or under a burning building. Other details of this story, not related to the girls' fates were very specific. The prisoner was returned to Kengkok with his interrogators to verify these specific details. This visit showed a correlation of such a high degree between the prisoner's story and the actual facts that authorities now believe his story.

During the first week I was in close touch with the U.S. Embassy in Vientiane by phone from Savannakhet. Early in the week they asked if I would come up to the capital city regarding the incident. Since it seemed that the situation was developing so rapidly, I asked to stay near the scene of activity for a time. The N.V.A. were putting up extremely stiff resistance and it appeared that it was going to take a while to dislodge them from their well entrenched position, so I was advised to make the trip. At the suggestion of the embassy I flew to Vientiane with my Swiss colleague, Peter Muller on Wednesday afternoon, Nov. 1st. After consultations, Peter and I phoned the Lao Patriotic Front—the Communist oriented faction here in Laos frequently called the Pathet Lao—seeking an interview with them. We were postponed a day, then the offer was rejected and the suggestion made that we write a letter instead. This we did, and after proper authorization, delivered it to their residence in person. We asked for their cooperation in securing release of the captured missionaries and asked for information to be passed along. No reply has been forthcoming to present writing.

Peter and I flew back to Savannakhet on Saturday, Nov. 4, arriving at noon. One hour later I flew in to Kengkok with an inspection party of U.S. Aid officials. I went to assess our situation and contact our local people. On Sunday I was able to locate our Toyota jeep which had been driven out and hidden in one of our Christian family's rice fields. I have driven back several times since but as yet have spent no nights in Kengkok due to the uncertain security of the region and in deference to the number of people who have advised against it. We are being very cautious inasmuch as we have received several reports of the N.V.A. saying they were upset at not having caught "the leader of the mission". The N.V.A. told Kengkok residents they were not familiar with the town's layout and none would have escaped. From the best judgment we can make it does not appear that the insurgents were aware of the presence of foreigners. This seems surprising.

In the few days after news got out to the press we have received a lot of encouraging confirmation of interest from all areas. We submit this report in an attempt to inform as factually as we can the events transpired in, without question, the longest week of our lives.

The above is pretty academic since it is being distributed to a lot of people. We feel we should add a note for interested Christian friends. We have been conscious of God's sustaining power in this weighty ordeal. In the two weeks that have passed we have duly received one note from North America so we have no idea of the reaction. We considered flying home to explain to families involved—since we surely feel the burden of responsibility we must bear in this story—but we also feel a responsibility to our Lao brothers and sisters who, in many cases, reacted so magnificently.

My heart nearly refused to continue when I made those first trips back to Kengkok alone. What had been a delightfully unspoiled, charmingly typical middle-class Lao town was now lying smouldering in the tropical sun. She had been ravished by war and huge sections, including virtually all the business community—simple though that was.

Then there was our house. Apart from some bullet holes, our section of town was not damaged. But the eloquent evidence of what is in the heart of man was startlingly plain. We had not evacuated for long when local villagers entered our house and started carrying things away—by the cart load. When the town was secured it was the turn of the liberating soldiers to help themselves. Our Christians tried to intercede but to no avail. Virtually everything of value was stolen; cameras, projectors, recorders, radio, record player, clothes, shoes, electric shaver, jewelry, tools, tableware, etc., etc. When these people were hungry we fed them, when they were sick we visited and treated them. Is this their response? A sense of bitterness rose, but has long since been dissipated. We know that things are not important, but to be effective in our work in such an underdeveloped part of the world, where our activity is so varied—teacher, medic, carpenter, mechanic, farmer, etc.—we need a certain amount of equipment. Much of the material stolen will ultimately have to be replaced to keep our efforts efficient and to best make use of our time. Not much of this equipment will be available locally, i.e., in Laos.

Lloyd and Sam had only been in their house about 3 weeks. It is a very desirable piece of property with a very adequate house. Some of their personal effects were stolen as well, but they had very little. We had drawn up an excellent contract for the purchase of the property and they made the first payment. Because we expect them to be released and are sure they will want to return to work we plan to continue paying for their property and will keep on their fellow who maintains the property.

The greatest need remains among the nationals. In Kengkok, 210 houses were burnt down. For most, this means virtually everything they own apart from their fields if they have one. Their graineries were always built close to the house and these went up as well. As we walked through town there were numerous piles of smouldering rice where their little storehouses once stood. In the words of one who was asked his feelings for the future, "Before we were concerned and afraid, now we are numb". We feel that we could not claim to show the love of Christ nor have the temerity to preach the Gospel of Forgiveness if we didn't help in their desperate physical need.

At the moment we are living with our Swiss colleagues in Savannakhet 55 kilometers west of Kengkok. Everyone demonstrated their interest and concern in a most gratifying way, loaning us clothes and things we needed until we regained our equilibrium. We'll be going back into Kengkok during the day frequently, and will still be able to work in our own area of responsibility where there are so many new believers. Just when we'll move back to our own home we cannot say definitely. We want to do so as soon as possible, naturally, but won't rush into the area until it has stabilized a little. God has certainly spared us for a reason, and our only desire is to be used of Himself.

The deportment of the believers of our region was an eloquent and strident witness to the change the Gospel makes in the life of an individual and it didn't go unnoticed. We anticipate a tremendous spiritual advance as a result of this event that seems so tragic from the human point of view. Please pray fervently that God's perfect will for all our lives will be realized speedily and unpromisingly.

A PARTIAL RECORD OF DIPLOMATIC EFFORTS TO GAIN AN ACCOUNTING FOR AMERICANS MISSING IN LAOS

POW/MIA Initiatives in Laos

February 1, 1973: DRV furnishes names of nine U.S. POW's held by Pathet Lao; U.S. states it cannot accept it as complete list of Americans captured in Laos.

February 21, 1973: Laos Agreement signed; Article 5 covers return of POW's and accounting for MIA's.

March 28, 1973: Nine U.S. POW's and one Canadian released in Hanoi.

Late May 1973: Lao Patriotic Front establishes official position that it has released all American military and civilian personnel taken on Lao soil prior to signing of the Lao Agreement on February 21, 1973.

May - June 1973: In reply to U.S. demarche, Pathet Lao delegates emphasize POW/MIA question cannot be discussed until the Protocol is signed.

June 1973: Pathet Lao acknowledge holding Emmet Kay.

May - December 1973: Six American POW/MIA family delegations visit Vientiane; Four see Pathet Lao representatives who repeat they hold no U.S. POW's except Kay.

September 14, 1973: Protocol under the Lao Agreement signed. It spells out POW/MIA provisions in Article 18 implementing Article 5 of the Lao Agreement.
(U.S. Embassy was heavily involved in the negotiations which led to this Protocol.)

April 10, 1974: Ambassador Whitehouse discusses POW/MIA issue with Prime Minister Souvanna Phouma, who, in turn, states he would raise the subject with the Cabinet.

April 11, 1974: Ambassador Whitehouse calls on Pathet Lao Deputy Prime Minister and Foreign Minister Phoumi Vongvichit and covers a broad range of topics including the POW/MIA issue and Emmet Kay. On the release of Kay, the Foreign Minister states that he will inform the Ambassador as soon as a decision has been reached.

April 12, 1974: Ambassador Whitehouse calls on the Secretary of State for Foreign Affairs (Vientiane side) and reiterates substantially the same remarks made to the Pathet Lao Foreign Minister on April 11, 1974. In addition, an aide-memoire is provided on Emmet Kay, other Americans known to have been alive in Pathet Lao hands, and on the number of MIA on our list.

April 23, 1974: Ambassador Whitehouse mentions to Minister of Interior (Vientiane side) that it would be a grave error to wait until the last moment to release Emmet Kay.

April 27, 1974: Ambassador Whitehouse forwards copies of aide-memoire on POW/MIA matters to Soviet Ambassador Vdovine, who, in turn, later states that the POW/MIA subject was raised with the Pathet Lao on April 28, 1974.

May 2, 1974: Ambassador Whitehouse meets with Pathet Lao Minister of Cults and raises the Emmet Kay issue. No reaction is noted.

May 3, 1974: Ambassador Whitehouse meets with Pathet Lao Minister of Information, asks about the release of Emmet Kay. The Minister is non-committal but implies that he will be released in the 60-day period.

May 8, 1974: Ambassador Whitehouse requests International Committee of the Red Cross General Delegate to assist in the resolution of the POW/MIA issue in Laos.

May 9, 1974: Ambassador Whitehouse meets with the Minister of Justice and Deputy Chairman of the Joint Committee to discuss POW/MIA issue and specifically Emmet Kay. The Minister reports that the question has been raised with full committee; however, the Pathet Lao did not respond.

May 10, 1974: Ambassador Whitehouse calls on Pathet Lao Minister of Economy and discusses the Emmet Kay issue. The response is the standard one -- "under consideration" and "higher priorities".

May 16, 1974: Ambassador Whitehouse meets with the Pathet Lao Secretary of State for Interior and mentions the importance of Emmet Kay's release. The Secretary indicates that the release will be in accordance with the implementation of the Protocol.

May 23, 1974: Ambassador Whitehouse raises question of Emmet Kay with Prime Minister (Vientiane side), who, in turn, indicates that this question has been raised with the Pathet Lao Foreign Minister; however, additional attempts will be undertaken.

May 25, 1974: Senate Foreign Relations Committee members visiting Vientiane raise the issue of Emmet Kay release with Pathet Lao Minister of Economy who advises that Kay is being well cared for.

May 28, 1974: Ambassador Whitehouse is advised by Prime Minister (Vientiane side) that there is nothing definite on Emmet Kay's release; however, the Prime Minister expresses hope that he will be released in the near future.

June 3, 1974: Ambassador Whitehouse expresses concern to Pathet Lao Foreign Minister that Kay has not been released.

June 4, 1974: Liaison Officer of Joint Casualty Resolution Center, the Embassy's Special Assistant for MIA's, requests that Australian Military Attache inquire about Kay's release during a forthcoming visit to Sam Neua.

August 21, 1974: Ambassador discusses Kay's release with Lao Interior Minister.

August 21, 1974: Pathet Lao spokesman in JCCIA tells Embassy officer Kay will be released about September 12, 1974.

September 1974: Released Thai and Royal Lao prisoners are questioned re MIA's.

September 19, 1974: Kay released.

September 24, 1974: Kissinger meets Lao Vice Premier Phoumi Vongvichit at United Nations General Assembly and raises question of American POW/MIA's.

October 21, 1974: Ambassador sees Lao Foreign Minister on MIA question.

November 1, 1974: Deputy Assistant Secretary of State Miller raises MIA issue with Lao Foreign Minister during visit to Vientiane.

November 25, 1974: Ambassador refers to MIA question as important element in U.S.-Lao relations.

Dean/Sharman Case -- Chronology

September 17, 1974: Embassy Vientiane makes inquiries with the Lao Foreign Ministry re whereabouts on the basis of reports Dean and Sharman are missing. Joint Central Commission to Implement the Agreement (JCCIA) also queried.

November 27, 1974: Ambassador Whitehouse discusses the case with the Lao Interior Minister (of Pathet Lao side) who promised to look into it. At the same time, the Embassy sent letters to the Foreign Ministry and both sides of the JCCIA asking for prompt action.

December 4, 1974: Ambassador Whitehouse discusses the case with Foreign Minister Phoumi Vongvichit (of Pathet Lao side) who promises to check into it.

December 16, 1974: Ambassador and Dean's father meet with Phoumi.

December 23, 1974: Pathet Lao letter to Embassy disclaims any knowledge of Dean or Sharman.

December 26, 1974: Ambassador Whitehouse takes the case up with Prime Minister Souvanna Phouma.

January 8, 1975: Ambassador sends a letter to Foreign Minister Phoumi with full details on the disappearance and asking immediate release.

January 13, 1975: Ambassador sees Prime Minister again and leaves the same information and a copy of his letter to Phoumi.

January 17, 1975: Assistant Secretary of State Habib calls in Lao Ambassador in Washington, reviews facts in the case, stresses the importance of the case in U.S.-Lao relations and rejects Pathet Lao disclaimer as unacceptable.

January 20, 1975: Ambassador Whitehouse writes Foreign Minister providing new, additional information.

January 21, 1975: Ambassador reviews case with Soviet Ambassador, who agrees to take it up with the Pathet Lao.

January 22, 1975: Lao Ambassador in Washington calls on Assistant Secretary Habib reporting that Phoumi had contacted Sam Neua requesting information and a reply.

January 23, 1975: Foreign Minister Phoumi answers Ambassador Whitehouse's letter saying he had sent copies to the Pathet Lao Central Committee for investigation of the case. Foreign Minister and Ambassador discuss this informally the following day.

January 27, 1975: Secretary Kissinger sends messages to Lao Prime and Foreign Ministers calling for the immediate release of Dean and Sharman and asking Souvanna's intervention with the Pathet Lao.

January 30, 1975: Ambassador once again sees Phoumi with a letter providing further information on the case.

February 4, 1975: Ambassador takes Mrs. Dean to call on Foreign Minister. The interview produces little new.

February 14, 1975: Prime Minister responds to the Secretary's message repeating his pledge to do everything he can to locate Dean.

February 20, 1975: Ambassador again sees Prime Minister about the case.

February 28, 1975: Embassy Vientiane sends a letter on the case to the DRV Ambassador as Dean of the Diplomatic Corps, which is returned March 3, 1975 with a denial of the evidence presented by the Embassy.

February 28, 1975: Lao Foreign Minister sends the Ambassador and Secretary a letter transmitting a Lao Patriotic Front letter denying that Dean and Sharman were ever in Pathet Lao hands.

March 5, 1975: Ambassador Whitehouse meets with Prince Souphanouvong, who agrees to look into the case on a visit to Sam Neua.

March 7, 1975: Lao Ambassador to the United States called in by the Acting Secretary of State re the case. On March 17th, the Lao Ambassador advises that his Government has told him that the U.S. Embassy in Vientiane has already been informed re the case.

March 10, 1975: Ambassador sends Foreign Minister a letter stating that his letter of February 28 repeating Pathet Lao statements is inadequate. The Ambassador reiterates the evidence of Pathet Lao involvement in the disappearance.

March 12, 1975: Ambassador discusses the case with Prime Minister, who advises he is sending a message to his half-brother in Sam Neua requesting an investigation.

March 17, 1975: Ambassador Whitehouse sends a further letter to the Prime Minister on this case.

March 24, 1975: Prime Minister replies that he has taken the matter up with Prince Souphanouvong in Sam Neua and is awaiting his reply.

April 4, 1975: Prince Souphanouvong tells Ambassador Whitehouse that he spent much time on the case on his recent visit to Sam Neua. The Pathet Lao have searched and found no evidence on the two. He maintains this line when repeatedly pressed by the Ambassador.

April 5, 1975: Ambassador discusses the case with Prime Minister Souvanna, who agrees to set up an independent investigation.

April 18, 1975: Colonel Vaughn, Embassy Special Assistant for MIA's, discusses the case with the Prime Minister's advisor on security and intelligence matters.

April 19, 1975: U.S. Embassy in New Delhi asks the Indian Government to take the matter up informally with the Pathet Lao.

April 30, 1975: The Embassy Special Assistant for MIA's discusses the case informally with the Pathet Lao delegate to the JCCIA, who states that the Pathet Lao authorities were unable to provide any information when he queried them.

May 13, 1975: Embassy Vientiane reports that repeated contacts with the Indian International Control Commission representatives about the Dean case have produced no results.

June 11, 1975: Embassy Vientiane issues Report of Presumptive Death at the request of Dean's family.

June 12, 1975: The Embassy's Special Assistant for MIA Matters takes the case up again with the Pathet Lao Delegate to the JCCIA, who agrees to pass his request for information to the Pathet Lao Central Committee and advise the Embassy of any reply.

In addition to the foregoing formal initiatives, U.S. representatives in Vientiane have also, on numerous informal occasions, pursued the subject of Emmet Kay and POW/MIA issue with the International Committee of the Red Cross delegate, military delegates to the International Control Commission, representatives of the diplomatic community, and journalists.

AIR AMERICA FLIGHT 293

This case is presented to illustrate how convincing a fabricated story can seem to be, but how, on careful examination, the fabrication becomes obvious. Both Intelligence Reports (IR's) were declassified by the Department of Defense at the request of the Select Committee. Data revealing specific sources has been deleted.

CONTENT OF RADIO ADVERTISING (Translated)

(by Air America, Inc.)

The concerned people of Air America Inc. wish to announce to friends, relatives, military and police personnel the news that AIR AMERICA Company had sent an aircraft type C-123 No. 293 along with four personnels on board:

1. Khamphanh Saysongkham (Lao Kicker)
2. Edwin Weissenback (American Kicker)
3. John Ritter (American Pilot)
4. Roy Townley (American Co-Pilot).

They left Vientiane airport on 27 December 1971 heading toward the northern part of Luang Prabang province to send food to the village or Xienglom near Pakbeng village in the vicinity of the city of Hongsa. Since that date of December 27, 1971 the aircraft and all four members disappeared and we have not found or heard anything until today.

We are passing this news to all listeners to join us in our efforts to locate or learn about the missing aircraft and members. Anyone that is capable of returning the missing men in any form at all, will receive a reward of two kilos of gold. Furthermore if anyone can provide to Air America the whereabouts of the men or the aircraft he will receive a reward of 62 grams of gold.

Any report should be directed to village head or usual landing places of Air America aircraft or directly at Security Office of Air America in Vientiane Airport.

17 July 1972

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT

NOTE: This document contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, U.S.C., Sec. 793 and 794. The transmission or the revelation of its contents in any manner to an unauthorized person is prohibited by law.

[Deleted.]

This report contains unprocessed information. Plans and/or policies should not be evolved or modified solely on the basis of this report.

(Classification and Control Markings)

1. COUNTRY: LAOS/NORTH VIETNAM
 2. SUBJECT: (U) Prisoner of War Report - Crash of an American Aircraft and Reported Detention Facility
 3. ISC NUMBER: U.S. PWs
 4. DATE OF INFORMATION: June-July 1972
 5. PLACE AND DATE OF ACQ: Vientiane, LAOS 4-14 August 1972
 6. EVALUATION: SOURCE E/E/P INFORMATION 6
 7. SOURCE: Casual source from name LVG from name SK [Deleted.]

8. REPORT NUMBER: 2 237 0095 72 (5310-03-E)
 9. DATE OF REPORT: 17 August 1972
 10. NO. OF PAGES: 3
 11. REFERENCES: DIRM: 1Q16, 6G; SICR D-7CX-4901 AMS Series L7015, Edition 1
 12. ORIGINATOR: OUSARMA, Vientiane, LAOS
 13. PREPARED BY: JOHN B. WILSON, MAJ, GS /S/ Assistant Army Attache
 14. APPROVING AUTHORITY: JOHN W. FRYE /S/ COL, GS U.S. Army Attache

15. SUMMARY:

[Deleted.] This IR transmits information obtained during the alleged debriefing of Pathet Lao (PL) or Neo Lao Hak Sat (NLHS) defector name SK by name LVG. This report provides questionable information concerning the downing of an American aircraft in December 1971, the capture of its crew members, and their subsequent imprisonment. This report includes the location and the description of the detention facilities containing the crew members, four additional Americans and several high ranking Thai and Lao officers. [Deleted.]

(Leave Blank)

1. [Deleted.] Circumstances of Alleged Defection. On 4 August 1972, a casual source stated that name LVG, a resident of Vientiane, LAOS, was a personal friend of name SK, a member of the Pathet Lao (PL) or Neo Lao Hak Sat (NLHS). SK wanted to defect to the Royal Lao Government (RLG) but was afraid of being killed or severely punished. According to the casual source, SK wanted to defect to the Americans to insure his personal safety. This same PL or NLHS member had information pertaining to the downing of an aircraft with a tail number 293 and the subsequent capture of three Americans and one Lao. SK was allegedly the prison camp commander of the detention facility containing these three Americans, four additional Americans and several high ranking Thai and Lao officers. SK reportedly had personally seen the seven Americans as of 60 days ago and had information which indicated that the Americans were still in the camp as of 15 July 1972. On 13 August 1972, LVG was contacted by the preparer of this report.

16. DISTRIBUTION BY ORIGINATOR

CINCPAC
 CINCUSARPAC
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 CGMFPAC
 COMUSMACV (JPRC)
 COMUSMACVTHAI
 500TH MI GROUP
 HQ 7/13 AF (UDORN)
 CH, SPEC ACTIVITIES, BANGKOK

17. DOWNGRADING DATA

[Deleted.]

18. ATTACHMENT DATA

NONE

[Deleted.]

(Classification and Control Markings)

DD FORM 1396

U.S. GOVERNMENT PRINTING OFFICE: 1963 OF-119-211

REPLACES DA FORM 1045, 1 AUG 60,
 GPO: 1960 O-551-101,
 48 FORM 110, JUL 61, WHICH MAY BE
 USED UNTIL 1 JAN 62.

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT

CONTINUATION SHEET

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REPORT NO. 2 237 0095 72
 PAGE 2 (5310-03-E) 3 PAGES
 ORIGINATOR: OUSARMA
 Vientiane, LAOS

(Classification and Control Markings)

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LVG allegedly debriefed SK and obtained the following information.

2. [Deleted.] Reported Sighting of Downed American Aircraft

a. SK allegedly observed the crash of an aircraft in December 1971. It appeared as if the aircraft was attempting to make a landing at Muong Sai airfield (RC 123893); however, it landed in the middle of a stream within a two kilometer radius of RC 1189. Just before the crash, the aircraft sounded as if it had run out of gas. The aircraft finally came to a stop in the middle of a stream, the tail section sticking out of the water. The number on the tail was 293. Three Americans and one Lao were captured and at a later date were taken to a detention facility in the vicinity of UG 425739.

3. [Deleted.] Reported Condition of Crew Members

a. The pilot of the aircraft suffered a broken left arm. Otherwise he was in excellent condition.
 b. The co-pilot suffered an unknown type injury to the knee. Otherwise, he was in excellent condition.
 c. The American kicker suffered an injury over the left eye. Otherwise, he was in excellent condition.
 d. The Lao kicker, named K, lost one tooth. Otherwise he was in excellent condition.

e. One American reportedly had a small caliber pistol in his hip pocket or strapped to the upper part of his leg. After he arrived at the detention facility, he reportedly gave the pistol to one of the guards. The guard sold it and bought food for the American.

4. [Deleted.] Activities After Capture

a. SK reportedly stated to LVG that the three U.S. and one Lao PWs were taken to the detention facility at UG 425730 on an unknown date. SK reportedly escorted the prisoners to that location. SK reportedly was the camp commander at the detention facility and saw the Americans on a daily basis for several months.

b. LVG initially reported through the casual source that according to SK the Americans were still at the detention facility as of July 1972; however, LVG reported on 13 August 1972 that SK had stated that the Americans were taken out of the detention facility in June 1972 and transferred to Tuyen Quang (nca), North Vietnam. (No further information.)

5. [Deleted.] Description of Detention Facility

a. The detention facility was reportedly located inside a cave which had a five to six meter-high waterfall running over the entrance of the cave. Two cells were inside the cave. One cell was for U.S. PWs and the other was for the high ranking Thai and Lao personnel. Outside of the cave were areas for growing vegetables including an area for growing pumpkins. Approximately 50 enemy personnel reportedly consisting of PL were within one kilometer of the camp. (No further information.)

6. [Deleted.] Daily Activities of the American PWs. The Americans reportedly bathed in a nearby stream once a week, cut fire wood in the vicinity of UG 423740, and were also utilized to grow vegetables. (No further information.)

COMMENTS: [Deleted.]

a. The casual source who initially provided the information concerning the availability of an enemy defector has been providing information to this office on a daily basis for several years. Information previously provided has been from

[Deleted.]

(Classification and Control Markings)

DD FORM 1396

U.S. GOVERNMENT PRINTING OFFICE: 1963 O-551-101

REPLACES DA FORM 1045, 1 AUG 60,
 AND DA FORM 606, 1 AUG 60 WHICH
 MAY BE USED UNTIL 1 JAN 62.

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT

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REPORT NO: 2 237 0095 72

PAGE 3 OF 3 PAGES

ORIGINATOR OUSARMA

Vientiane, LAOS

(Classification and Control Markings)

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unknown sources and of questionable validity. The casual source has in the past tended to maximize, minimize, or manufacture information to meet the requirement of the particular question that was asked him. In addition, he is particularly inept at asking the proper questions when debriefing any one of his "many" sources.

b. Local liaison was conducted and it was determined that in fact a C-123 aircraft with tail number 293 was lost in December 1971, that three Americans and one Lao were on the aircraft, and that the aircraft mysteriously disappeared during a routine mission.

c. After proper coordination with appropriate in-country agencies had been effected, the casual source was again contacted and told to arrange a meeting with the PL. The casual source was immediately told that if the PL was who he said he was and had the information which the casual source had indicated, appropriate rewards for all concerned would be made. He was additionally told that means existed to determine the veracity of the information. Repeated attempts, according to the casual source, were made to contact LVG and SK. Contact was finally effected with LVG on 13 August 1972. At this time, LVG stated that SK had made arrangements to defect to the RLG in Pakse and that SK was defecting his entire organization to include 47 men and one woman. The actual defection would take place on 14 August 1972. Therefore it would not be necessary for SK to meet the preparer of this report. When LVG was reminded of the rewards which could be made if the information was accurate, he then stated that SK would attempt to return to Vientiane and provide the detailed information pertaining to the Americans and the aircraft downing after the details of defection were arranged.

d. It has been apparent to this office from the initial reporting of the information that the entire report strongly hinted of a fabrication or at least was being partially manufactured. However, because pieces of information matched favorably with known aircraft downing data, it was determined necessary to attempt to effect contact with the alleged defector.

e. Air America has publicly announced available rewards for information concerning the downing of aircraft and the disposition of the crew members. The casual source made mention of this reward during his first report of the availability of a knowledgeable source. He later indicated that LVG was aware of the reward and that LVG had told SK of the reward. The tail number of the aircraft was not made public; however, during the SAR effort, Air America representatives participating in the effort stated that the number 293 was used over the airways and could have been picked up by anyone listening in on that particular frequency. K is the name of the missing Lao crew member. The fact that LVG was able to provide the name of the Lao kicker is not that significant in that his name could easily be obtained locally.

f. Information contained in this report has been passed to Irregular Assets for further exploitation if and when SK surfaces in Pakse, Laos. If SK in fact exists, it is doubtful that he had access to the type of information given in this report. It is probable that most information contained in this report has been fabricated in an attempt to obtain monetary rewards.

g. On 20 August 1972, after final preparation of this report, the casual source reported that SK had defected in Pakse, LAOS, together with 53 personnel. On 21 August 1972, the casual source reported that SK would be made available on 21 August for detailed debriefings.

h. As of 21 August 1972, according to Irregular Assets, no information has been received which indicates that a defection of this many personnel has taken place. No report has been received which would indicate that SK had defected.

i. Further attempts will be made to contact SK for detailed debriefing concerning information contained in this report. Information obtained will be forwarded in a subsequent IR.

[Deleted.]

(Classification and Control Markings)

DD FORM 1396

U.S. GOVERNMENT PRINTING OFFICE: 1962 O-661151

REPLACES DA FORM 1048-1, 1 AUG 60
AND DA FORM 606, 1 AUG 60 WHICH
MAY BE USED UNTIL 1 JAN 63.

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT

NOTE: This document contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, U.S.C., Sec. 793 and 794. The transmission or the revelation of its contents in any manner to an unauthorized person is prohibited by law.

This report contains unprocessed information. Plans and/or policies should not be evolved or modified solely on the basis of this report.

[Deleted.]

(Classification and Control Markings)

1. COUNTRY: LAOS

2. REPORT NUMBER: 2 237 0116 72

2. SUBJECT: Prisoner of War Report-
Reported Downing of U.S.
Aircraft and PW Detention
Facility

3. DATE OF REPORT: 25 August 1972

3. ISC NUMBER:

10. NO. OF PAGES: 4

11. REFERENCES: DIRM 1Q16; 6C
SICR 7-dcx-49018.
AMS Series L7015 Edition #1
IR 2 237 0095 72

4. DATE OF INFORMATION: April-May 1972

12. ORIGINATOR: OUSARMA, Vientiane, LAOS

5. PLACE AND DATE OF ACQ: Vientiane, LAOS
24 August 1972

13. PREPARED BY: JOHN B. WILSON, MAJ, GS
Assistant Army Attache

6. EVALUATION: SOURCE E INFORMATION 4

14. APPROVING AUTHORITY: JOHN W. FRYE

7. SOURCE: [Deleted.]

COL, GS
U.S. Army Attache

15. SUMMARY: [Deleted.] This report contains the results of the debriefing of alleged Pathet Lao (PL) defector [Deleted.] concerning the downing of an American aircraft, the disposition of the crew members, and a reported PW detention facility in LAOS used to detain the aircraft crew members and three additional Americans.
[Deleted.]

(Leave Blank)

1. [Deleted.] Background Summary. On 4 August 1972, a casual source stated that he was in contact with an individual who wanted to defect. The individual who wanted to defect was named [Deleted.]. He reportedly had personal knowledge concerning items listed in the above summary. After the individual reportedly defected to the Royal Lao Government (RLG) arrangements were made to have the individual debriefed concerning his reported knowledgeability. On 24 August 1972, the source was debriefed for approximately two hours.

2. [Deleted.] Source Biographic Data. Source provided the following data:

[Deleted.]

16. DISTRIBUTION BY ORIGINATOR

CINCPAC
CINCUSARPAC
CINCPACAF
CINCPACFLT
CGFMFPAC
COMUSMACV (JPRC)
COMUSMACHTHAI
SOOTH MI GROUP
HQ, 7/13 AF (UDORN)
CH, SPEC ACTIVITIES, BANGKOK

17. DOWNGRADING DATA

[Deleted.]

18. ATTACHMENT DATA

NONE

[Deleted.]

(Classification and Control Markings)

DD FORM 1396

U.S. GOVERNMENT PRINTING OFFICE: 1962 O-661151

REPLACES DA FORM 1048, 1 AUG 60,
OPNAV FORM 3026 (Rev 10-61),
AF FORM 119, JUL 61, WHICH MAY BE
USED UNTIL 1 JAN 63.

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT

CONTINUATION SHEET	[Deleted.]	REPORT NO. 2 237 0116 72
		PAGE 2 OF 4 PAGES
		ORIGINATOR OUSARMA Vientiane, LAOS
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3. [Deleted.] <u>Downing of U.S. Aircraft.</u> a. Source stated that sometime during the period October-December 1971, he was working in the vicinity of Muong Sai (RC 1290). One day, date not recalled, PL soldiers working in the area told source that an American aircraft had crashed the day before in an area not too far from where they were located. Source initially stated that he then went to the crash site to help remove the cargo that was on the aircraft. Cargo consisted of tin cans, cardboard cartons, uniforms, and rice. Later during the debriefing, he stated that he only personally saw one cardboard carton removed from the aircraft. He later stated that he had only spent approximately ten minutes at the crash site. There were approximately 100 PL soldiers in the area unloading the aircraft. 4. [Deleted.] <u>Description of Aircraft.</u> Source stated that the aircraft was located in deep water, had two engines, a high tail, and a wire running from the top of the aircraft to the top of the tail. Source stated that he did not observe any number on the aircraft. He couldn't remember even if there was a number on the aircraft tail. He initially stated that the water was very deep and almost covered the tail. Only a small piece of the tail was sticking out of the water. 5. [Deleted.] <u>Activities After Observing Downed Aircraft.</u> After observing the aircraft for approximately ten minutes, Source returned to the prison facility which was located in the center of Muong Sai. Two days later, the three Americans and one Lao reported by PL soldiers escorting them to be the crewmembers of the downed aircraft arrived at Source's detention facility. They were kept at the facility for approximately four months and Source "lived with them" for that period of time. Source later recalled that he had been with them for about four or five days at a time, would take a one or two day rest, and would go back and "live with them" for another four or five days. 6. [Deleted.] <u>Crew Members Condition.</u> When the Americans arrived at his location, they were all dressed in PL uniforms. One American had a minor leg wound (was able to walk), the second American had a minor elbow wound (was able to move his elbow), and the third American had a minor cut over his left eyebrow. The Lao had a tooth missing. 7. [Deleted.] <u>Source's Return to Vientiane.</u> Source stated he was tired of living in the jungle and decided to quit. He then walked to Luang Prabang and took a boat to Vientiane (TE 4787), LAOS. He left Muong Sai approximately two to three months ago. The three Americans, one Lao, and three additional Americans previously at the camp were still there when Source left. COMMENTS: [Deleted.] a. Source and (LVC) arrived at the designated meeting place approximately one hour late. The casual source mentioned in the referenced IR was also present.		
[Deleted.]		

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U.S. GOVERNMENT PRINTING OFFICE: 1965 O-551151

REPLACES DA FORM 1048-1, 1 AUG 66
AND DA FORM 559, 1 AUG 65 WHICH
MAY BE USED UNTIL 1 JAN 68.

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT

CONTINUATION SHEET	[Deleted.]	REPORT NO. 2 237 0116 72
		PAGE 3 OF 4 PAGES
		ORIGINATOR OUSARMA Vientiane, LAOS
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When Source arrived, he was obviously very concerned over his personal safety. He and LVC stated that SK was very afraid, that they both had put their lives in jeopardy and that the PL cadre in Vientiane were out to kill SK. When attempts were made to take SK from the area into a separate room for debriefing, he insisted on remaining with LVC. As a result, the debriefing was conducted in the presence of LVC, SK, and the casual source. b. Source appeared as if he had just come out of the jungle. He appeared to have little intelligence and on numerous occasions during the debriefing looked to LVC for guidance on how to answer a particular question. Source was initially told that it was learned that he had significant information concerning American PWs and that it was important for him to relay very accurately everything that he had seen and he should add nothing to what he had seen. If he did not know the answer to the question, he was to state that he did not know. He was additionally told that in many cases such as these, persons tended to exaggerate their knowledge of a particular incident to satisfy the person asking the question. At this point, he looked puzzled and asked LVC what was happening. LVC told him to just answer the questions and everything would be all right. SK bowed deeply, excused himself, offered apologies and stated that he hoped he would be able to answer my questions. c. Source was at first very hesitant in answering questions concerning his personal background. It became apparent that further questioning in this area might cause him to become uncooperative. Every time Source was asked a question, the answer of which he wasn't sure, he would look to LVC for an answer. This happened on at least ten occasions. An example of this was when he was asked the month the aircraft had crashed. He lowered his head, thought for a full minute, and stated he could not remember. He then looked to LVC. LVC was told to let SK answer the question; however, a few minutes later, LVC asked SK if the aircraft had gone down in December. SK finally stated that he thought the aircraft had gone down during the October-December 1971 period. d. During the general debriefing portion, Source had stated that he had gone to help unload the aircraft. He later stated in his detailed debriefing that he had only personally observed one cardboard carton and had only stayed in the area for approximately ten minutes. e. When Source was asked if he had observed the tail number of the aircraft, LVC became subtly but visibly disturbed at Source's negative reply. f. When source was asked to describe the aircraft, he described it relatively accurately; however, it should be noted that pictures of the type of aircraft that was lost with tail number obliterated were disseminated for public consumption. Source accurately described the three most prominent points of the aircraft picture--the high tail, two engines, and the wire running from the aircraft to the top of the tail. g. When source was asked to describe the position of the aircraft in the water, he stated that it was flat in the water and was completely submerged except for a small portion of the tail sticking out of the water. When asked how the cargo could be removed if the aircraft were in such deep water, he became nervous and looked to LVC. He then explained that the PL were using a small boat to unload the aircraft. h. Source was questioned in detail concerning his familiarity with the four crew members during the four month period. He stated he "lived with them." He constantly reiterated the theme that he had "lived with them" and had seen them on an almost daily basis for the entire four months. When asked if he knew the names of any of the crewmembers, LVC suddenly provided the name of KHAMPHANH, the Lao kicker. Source then stated that the Lao's name was KHAMPHANH.		
[Deleted.]		

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U.S. GOVERNMENT PRINTING OFFICE: 1965 O-551151

REPLACES DA FORM 1048-1, 1 AUG 66
AND DA FORM 559, 1 AUG 65 WHICH
MAY BE USED UNTIL 1 JAN 68.

DEPARTMENT OF DEFENSE INTELLIGENCE INFORMATION REPORT		
CONTINUATION SHEET	[Deleted.] (Classification and Control Markings)	REPORT NO. 2 237 0116 72 PAGE 4 OF 4 PAGES ORIGINATOR OUSARMA Vientiane, LAOS
i. At this point during the debriefing, Source was becoming visibly upset. When asked how he arrived in Vientiane from Muong Sai, both the casual source and LVC attempted to assist his explanations of his travels. After about twenty seconds of this interrupted explanation, Source finally decided that he had to leave to pick up a "child" who was waiting for him down the street. At this time, I asked him if he could stay for five more minutes to look at some pictures. He agreed. He was then taken over to a corner of the room where there would be less interference from LVC; was shown five groups of pictures with each group containing four pictures. Crew member pictures were intermingled within the total 20 pictures. Source studied each group for approximately one minute and was unable to determine any positive identification. The pictures were then placed on a flat surface and grouped into two categories - five pictures of Lao personnel and 15 pictures of American personnel. Source studied the Lao group for approximately 15 minutes and finally produced a picture of the Lao crewmember. He then studied the 15 pictures of Americans for approximately 15 minutes. He was very nervous during this entire 30 minutes and finally stated that he was sure the three pictures he had chosen were the three Americans reported as the American crew members. None of the pictures were of the crew members. By this time, LVC tried to assist Source by asking him what problems he was having. Source then re-examined the Lao pictures. LVC was mumbling something to him at this time. About two minutes later, Source stated that he had changed his mind, that this picture (the one of KHAMPHANH) was the Lao crew member. It should be noted that the pictures in no way resembled one another. Source then went back through the pictures of the Americans and decided that another picture was one of the Americans. That picture was a picture of one of the American crew members. j. At this time, LVC and Source left with LVC stating that Source would try to return the following day. During a subsequent 15 minute conversation with the casual source during which I indicated that I suspected Source's story, he stated that he felt Source and LVC were lying; that it was a fabrication, and that it was probable that Source was a resident of Vientiane and had never been to Muong Sai. k. According to appropriate U.S. Mission officers, as of 25 August 1972, Source has not defected to the RLG. l. As is evident from the above data and comments, Source and LVC have fabricated this entire story to obtain monetary rewards by Air America. It could very well be that the casual source is directly or indirectly involved. This office considers the incident terminated. m. Copies of this report have been provided to the U.S. Mission.		
[Deleted.] (Classification and Control Markings)		

DD FORM 1396c

U.S. GOVERNMENT PRINTING OFFICE: 1962 O-551131

REPLACES DA FORM 1025-1, 1 AUG 66
AND DA FORM 505, 1 AUG 62 WHICH
MAY BE USED UNTIL 1 JAN 69.INTERPRETATIONS OF THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE
IN VIETNAM

1. AERIAL RECONNAISSANCE

North Vietnam

Reconnaissance by the United States or the GVN over the territory of North Vietnam is prohibited by Article 2 of the Agreement.

With respect to reconnaissance activities over North Vietnam, we have assured the DRV that such activity "will cease completely and indefinitely." With respect to GVN reconnaissance over South Vietnam, the DRV has told us that the PRG will not tolerate reconnaissance over areas controlled by the PRG and will fire at any GVN aircraft overflying such areas. We have responded that we would consider such firing a violation of the cease-fire.

South Vietnam

Unarmed reconnaissance throughout South Vietnam is not prohibited by the Agreement, and the United States made clear to the DRV that we intend to continue reconnaissance during the 60-day period while our troops remain in the South. Unarmed aerial reconnaissance over South Vietnam might of course be prohibited or restricted by agreement in the Joint Military Commissions on corridors or other regulations pursuant to Article 3(b) of the Cease-Fire Protocol.

Laos and Cambodia

Nothing in the Agreement affects reconnaissance over Laos and Cambodia prior to the time hostilities cease and foreign military forces are required to withdraw from those two countries. After withdrawal of foreign forces, unarmed reconnaissance over Laos and Cambodia would be lawful if conducted at the request or with the consent of the government concerned. The just concluded cease-fire agreement in Laos appears to prohibit aerial reconnaissance; however, this should be checked with the RLG.

2. OTHER AIRCRAFT OPERATIONS

South Vietnam

In South Vietnam, I interpret Article 3 of the Cease-Fire Protocol as limiting U.S. and GVN overflights of South Vietnam only by preventing flights of armed combat aircraft. To the extent the Joint Military Commissions may agree on corridors or other regulations pursuant to Article 3(b), there might of course be further limitations.

From our negotiations with the DRV it seems clear that they do not accept this interpretation of the assurance of freedom of movement in Article 3(a) (1) and will assert that any overflight of PRG controlled areas is illegal. The DRV/PRG will press for agreement on corridors and restrictions. So long as the PRG is not provided with a substantial air capability, I would doubt that the GVN would agree to any such corridors or restrictions.

Laos and Cambodia

Our air activities in Laos and Cambodia, both combat and non-combat, have been undertaken at the request of the governments of those two countries. They are not affected by the Agreement until such time as cease-fires and foreign troop withdrawals are arranged in those two countries. Article 20 of the Agreement requires respect for the 1954 and 1962 Geneva Agreements and the withdrawal of foreign troops and their equipment from Cambodia. This article was carefully drafted, however, to avoid stating a time or period of time for the implementation of these obligations, and it was clearly understood that they would be implemented as soon as cease-fire and troop withdrawal arrangements could be worked out in Laos and Cambodia. Thus, once a cease-fire is arranged in either of those countries, U.S. combat air activities would have to cease. Similarly, once arrangements were reached for withdrawal of foreign forces, all other military air activities would have to cease except as it might be permissible under the relevant provisions of the 1954 and 1962 Agreements.

3. CEASE-FIRE IN PLACE

Article 3 paragraphs (a) and (b) of the Agreement call for a cease-fire in place in South Vietnam and paragraph (c) prohibits certain specified offensive activities. Articles 2-6 of the Cease-Fire Protocol give meaning to these obligations. Article 2(a) is perhaps most important in defining the cease-fire in place as meaning "no major redeployments or movements that would extend each party's areas of control or would result in contact between opposing armed forces and clashes which might take place." Therefore, other military movements not of this type are permitted unless they are the type of hostile action specifically prohibited.

4. AREAS OF CONTROL

The concept of separated areas of control by the two South Vietnamese parties is critical to the definition of the cease-fire and is one of the basic assumptions of the Agreement. Article 3(b) of the Agreement provides that the Two-Party Joint Military Commission "shall determine the areas controlled by each party." We tried unsuccessfully to include in the Cease-Fire Protocol an article making it clear that the Two-Party Joint Military Commission should base its determination on a census of military forces, including their location, strength, and deployment. The DRV refused to accept this concept and clearly preferred a political exercise of drawing lines on a map. In view of this unresolved disagreement, the Two-Party Joint Military Commission is left with no guidance on how to determine the areas of control in South Vietnam.

5. MOVEMENTS OF WARSHIPS

Free movement of merchant ships is guaranteed by Article 3(a) (1). Military transport vessels of one party going through areas under control of other parties may be subject to subsequent agreement on corridors and regulations pursuant to Article 3(b). Movements of warships (combat vessels) are prohibited into areas of South Vietnam controlled by the other side, but are not otherwise limited.

We have informed the GVN that military escorts of convoys proceeding up the Mekong to Phnom Penh are, in our view, permissible if the GVN agrees that the ship channel remains an area under government control. This would be true even if areas of shore line are clearly under PRG control, but it is far from clear that the PRG would accept that interpretation and we have noted that a possible alternative to armed escorts would be a Joint Military Commission team or an ICCS accompanying team.

6. ALLIED COUNTRIES

Article 3(a) refers to U.S. forces and "those of other foreign countries allied with the U.S. and the Republic of Vietnam." This term is used to define which forces must be withdrawn within 60 days and which bases must be dismantled. I am unaware of any negotiating history relevant to the meaning of this term, but L and EA have decided to interpret it broadly to cover, not merely those countries which contributed troops to the conflict in South Vietnam, (Australia, New Zealand, Thailand, Korea and the Philippines), but also countries such as the Republic of China and the United Kingdom which provided advisory units to military, para-military or police activities. We also agree with the GVN's interpretations of it to cover Cambodian armed forces being trained in South Vietnam, so that these forces will also have to depart within the 60-day period.

7. WITHDRAWAL OF U.S. AND ALLIED FORCES—EQUIPMENT LEFT BEHIND

Article 5 of the Agreement requires the withdrawal within 60 days of foreign military personnel and "armaments, munitions, and war materiel of the United States and those of the other foreign countries mentioned in Article 3(a)." The question arises whether these forces may leave behind in Vietnam for the benefit of the Government of the Republic of Vietnam any military equipment. It was the understanding of the U.S. in negotiating the text of this article that the phrase "of the United States" implied ownership by the United States and, therefore, that equipment not owned by the U.S. at the time of the entry into force of the Agreement or subsequent thereto could be left in South Vietnam under Article 5. This point was also dealt with in Article 8(a) of the protocol on the cease-fire and joint military commissions. That article referred to the obligations of Article 5 to withdraw armaments, munitions and war materiel and stated "trans-

fers of such items which would leave them in South Vietnam shall not be made subsequent to the entry into force of the Agreement. . . ." This article makes it clear that equipment transferred prior to the cease-fire raises no problem; it does not, however, clarify the question whether transfer of title or transfer of possession is the critical act.

We tried during the negotiations to lay a foundation for our theory that transfer of title was adequate to take equipment out of the requirements of these articles, but we decided that we could not make this explicit without running an unacceptable risk that the North Vietnamese would object and make the issue a major one in the negotiations. Therefore, we did not explain to the DRV negotiators our interpretation of the phrase "of the United States." On the other hand, the North Vietnamese said nothing to us inconsistent with our interpretation. On the basis of the language and the absence of any relevant negotiating history, we can make a reasonable case, but we must recognize that it is far from compelling and that the International Commission may or may not agree with our view. We should anticipate that the North Vietnamese and the PRG will press the issue.

8. DESTRUCTION OF BASES

Article 6 of the Agreement requires the dismantlement of all military bases in South Vietnam "of the United States and of the other foreign countries mentioned in Article 3(a)," and this obligation is reiterated in Article 9 of the Cease-Fire Protocol, which requires the U.S. to supply necessary information to the Four-Party Joint Military Commission and the ICCS. We have interpreted this provision as meaning that bases which are owned by the U.S. must be dismantled, but that bases title to which was transferred to the GVN or to the U.S. Embassy for civilian use prior to the conclusion of the Agreement need not be dismantled. Since we transferred title to all U.S. bases prior to the conclusion of the Agreement, we intend to dismantle no bases.

We avoided making this intention clear to the DRV during the negotiations, but we consider the phrase bases "of the U.S." synonymous with bases owned by the U.S. Moreover, it was clear from discussions with the DRV concerning such issues as points of entry that they did not expect the dismantlement of installations such as Cam Ranh Bay and Than Son Nhut. Nevertheless we can expect a dispute on this issue.

9. WITHDRAWAL OF FOREIGN FORCES FROM LAOS AND CAMBODIA—TIMING

The obligation to withdraw foreign forces from Laos and Cambodia is stated in Article 20(b) of the Agreement. However, this obligation constitutes an agreement in principle and no time is stated for it to become an effective obligation. It was recognized that this, as other obligations of Article 20, should become effective at the earliest possible time, but it was also recognized that the precise timing would depend upon the timing of agreements among the contesting parties in Laos and Cambodia. We made it clear to the North Vietnamese that we intended to continue our air strikes in Laos until there was a cease-fire there, at which time they would of course be prohibited.

Thus, the provisions of Article 20(b) should be understood as agreements in principles which the United States and the DRV would endeavor to see were included in cease-fire or other settlement agreements in Laos and Cambodia. Only when such agreements are concluded will the obligation to withdraw become operational.

10. LIMITATIONS ON MILITARY ASSISTANCE TO LAOS AND CAMBODIA

The Agreement contains no restrictions on the provisions of military assistance to Laos and Cambodia. In Article 20(a) it was agreed that the 1954 Geneva Agreement on Cambodia and the 1962 Geneva Agreement on Laos should be respected, but no time was specified for requiring respect for those agreements. It was recognized that observance of those agreements should be required at the earliest possible time, but that this could not occur until cease-fire agreements were concluded in Laos and Cambodia and, perhaps, until subsequent political settlement agreements were concluded in those countries. In any event, both the 1954 and 1962 agreements permit the Governments of Laos and Cambodia to receive military assistance for their self-defense. Unless cease-fire or other agreements among parties in those countries were to impose restrictions or prohibitions on this subject, those governments will remain free to receive

such assistance. The Laos cease-fire agreement is ambiguous but appears to require agreement of both Lao parties to replacement of military equipment. This must be clarified with the RLG.

The language in Article 20(b) of the Agreement about withdrawal and non-reintroduction of armaments, munitions and war materiel, which might be read as precluding military assistance programs, is intended to refer to the armaments of the foreign forces that must be withdrawn, not to the acquisition of armaments by the governments of the two countries for their self-defense as permitted by the Geneva Agreements.

11. U.S. PRISONERS IN LAOS

All U.S. prisoners in Laos are to be released within 60 days.

The DRV has assured us that, although not covered by the Agreement, "all U.S. military and civilian prisoners detained in Laos shall be released no later than 60 days following the signature of the Agreement." The DRV has also assured us that it would be responsible for making the necessary arrangements with the Pathet Lao.

Article 8(b) of the Agreement concerning the account for missing in action and the location of graves does not apply to Laos. Similarly, the functions of the four Party Joint Military Commission with regard to dead and missing persons under Article 10(a) of the Protocol on the Return of Prisoners, do not extend to Laos. Therefore, it will be necessary to conclude further arrangements for tracing the missing and finding graves in Laos. This has been done in Laos by Article 5 of the ceasefire agreement, but further agreements may be necessary between the U.S. and the Government of Laos if U.S. personnel are to be involved directly in the accounting operations.

12. DESIGNATION OF LEGITIMATE POINTS OF ENTRY

Article 7 of the Agreement permits the two South Vietnamese parties to replace military equipment on a one-for-one basis under the supervision of the Two-Party Joint Military Commission and the ICCS. Article 7 of the Protocol on the Cease-Fire and Joint Military Commissions provides that entry into South Viet-Nam of replacement equipment may take place "through such points of entry only as are designated by the two South Vietnamese parties. The two South Vietnamese parties shall agree on these points of entry within 15 days after the entry into force of the cease-fire." The clear implication of this provision is that no legal entry or replacement of equipment may take place until such points are designated. The 15-day deadline was not met, but designation of three points of entry for each party has apparently now occurred. If that had not happened we would have been presented with the question whether necessary replacements could not then have been justified on some basis.

This article represents a compromise resulting from the negotiators' inability to agree on points of entry to be named in the Agreement. We suggested Da Nang, Cam Ranh and Saigon as the three points of entry for the GVN. The DRV negotiators said that the PRG wanted Gio Linh, at least 3 unnamed seaports, and one or two points of entry along the Cambodian border. The DRV was, however, unwilling to name specific seaports prior to cease-fire because of concern they would immediately be seized by the ARVN. Under these circumstances the DRV was unwilling to designate any legitimate points of entry for either side, and the resulting compromise was unavoidable. If the PRG had continued to refuse to carry out its clear duty to negotiate in good faith on the designation of points of entry, we would have been forced eventually to argue that necessary replacements for the GVN were permitted at the three chosen points. The two South Vietnamese parties and the ICCS would have to be given sufficient advance notice of entry to be able to supervise it.

We could not, of course, be certain that the ICCS would accept our argument that the failure of the PRG to negotiate in good faith on points of entry justified GVN replacement of supplies in the absence of designation of points of entry.

13. REPLACEMENT OF F-5'S

We have provided the GVN with a large number of F-5A aircraft which we borrowed from Korea, Iran and the Republic of China. We may wish at some future time to replace those F-5A aircraft with F-5E aircraft so that the F-5A's can be returned to the three countries from which they came. This raises the

question under Article 7 of the Agreement whether such replacement is authorized. To answer that we must first decide whether the F-5A's can be considered "destroyed, damaged, worn out or used up." Assuming that the F-5A's remain in good condition, it is difficult on the face of the language to argue that they may be replaced at all. On the other hand, if they are at some point returned to the countries of origin, I believe they can be reasonably argued to be "used up" within the meaning of Article 7. In general, that term was understood to mean all types of consumption which would make the item unavailable for further use by the GVN. An aircraft which has been transferred to another country is certainly no longer available to the GVN and should be considered "used up" and therefore subject to replacement under Article 7.

A second and more difficult question is whether an F-5E can be a legitimate replacement for an F-5A. Article 7 requires that the replacement be "on the basis of piece-for-piece of the same characteristics and properties. . . ." I do not at this point know the detailed characteristics of the two models of F-5 and could not properly make a judgment of the argument the GVN could make under Article 7. It seems obvious, however, that the GVN will have to be prepared to justify this replacement on the grounds of substantial similarity between the aircraft; if a decent argument cannot be made, the replacement cannot be justified.

14. INVENTORY BASE LEVEL

The question arises whether equipment, particularly ships and airplanes, owned by the Republic of Viet-Nam at the time the cease-fire entered into force, but outside of the country at that time, can be introduced lawfully into South Viet-Nam under Article 7 of the Agreement. As far as I am aware, this question did not arise during the negotiations, but it seems reasonable to suggest that the purpose of the restriction was to prevent an increase in military equipment in South Viet-Nam at the time the cease-fire came into force and, therefore, that the return of equipment temporarily outside the country at that time should be permissible provided that comparable items of equipment are at the same time taken out of the country, either for repair or some other legitimate purpose. In other words, if the inventory base level of January 28, 1973 is not exceeded, there should be no violation of Article 7 by the return of equipment owned by the GVN, but out of the country on that date.

15. DEFINITION OF ARMAMENTS, MUNITIONS, AND WAR MATERIEL

The Agreement requires in Article 5 the withdrawal within 60 days of U.S. and allied "armaments, munitions and war materiel" and permits the two South Vietnamese parties to replace "armaments, munitions and war materiel." (Article 7) Under both of these provisions questions may arise as to the meaning of these quoted phrases. In particular, it is not obvious whether commercial type equipment used by the U.S. military forces, such as commercial barge piers, must be withdrawn within 60 days and whether commercial vehicles, such as trucks, can be furnished to the military forces or police of the two South Vietnamese parties. I know of no specific negotiating history relevant to this question, but after discussing it with Benjamin Forman, Assistant General Counsel of the Department of Defense, I have concluded that equipment normally used as military equipment, such as trucks, should be considered "war materiel" within the meaning of Articles 5 and 7. Most such equipment is, in fact, procured commercially and only subsequently painted and marked as military equipment. The barge piers used presently by U.S. forces may be left in South Viet-Nam longer than 60 days only if they are owned by contractors, are clearly so marked, and will be moved subsequently by civilian contractors. Similarly, normal commercial vehicles destined for the armed police must be considered war materiel, but an argument might reasonably be made that police cars and trucks for the civilian police mentioned in Article 6 of the Cease-Fire Protocol need not be considered "war materiel."

16. RESUPPLY OF PARTS

The question arises whether parts—components less than whole end items—may be resupplied on other than a one-for-one basis pursuant to Article 7. It could be argued that parts need not be handled on a one-for-one basis so long as the number of end items in active inventory are not increased above the inventory base level. On the other hand, it can be argued that some parts, for example, guns for mounting in tanks, are significant items by themselves which should fall under the requirements of Article 7.

Interpretation on this point could go either way, and much will depend upon how the two South Vietnamese parties and the ICCS choose to apply it. I would expect the ICCS to be much tougher about requiring evidence of one-for-one replacement of end items and perhaps key components than of lesser components and relatively less significant parts. This is a case in which practice will go far to determine the flexibility of the article.

17. DEFINITION OF ADVISERS

Articles 5 and 7 of the Agreement require the withdrawal of U.S. and allied military advisers and prohibit the two South Vietnamese parties from accepting the introduction of any military advisers into South Viet-Nam. Under both of these provisions the question arises of the meaning of the term "military advisers." In the first place, it is clear that it is aimed at civilian personnel, because all military personnel are dealt with separately. Beyond that, it seems clear that it is intended to cover all civilians engaged in giving training or advice to military or paramilitary forces or to the police, but that it is not intended to be broad as the similar provision in the Laos Agreement of 1962, where "foreign military personnel" required to be withdrawn were defined as follows:

"For the purpose of this Protocol—(a) the term 'foreign military personnel' shall include members of foreign military missions, foreign military advisers, experts, instructors, consultants, technicians, observers and any other foreign military persons, including those serving in any armed forces in Laos, and foreign civilians connected with the supply, maintenance, storing and utilization of war materials;"

In Viet-Nam, civilians not engaged in giving training or advice to military, paramilitary, or police units are not military advisers, even if they are attached to military units or are concerned with the supply or maintenance of military equipment.

The United States has assured the DRV that we shall withdraw from South Viet-Nam within twelve months from the signature of the Agreement all our civilian personnel "working in the armed forces of the Republic of Viet-Nam." We have also assured the DRV that the majority of them will be withdrawn within ten months. These assurances clearly cover all U.S. Government employees whose principal duties are with GVN armed forces. It is unclear whether it applies to U.S. nationals employed by contractors of either the United States or the GVN.

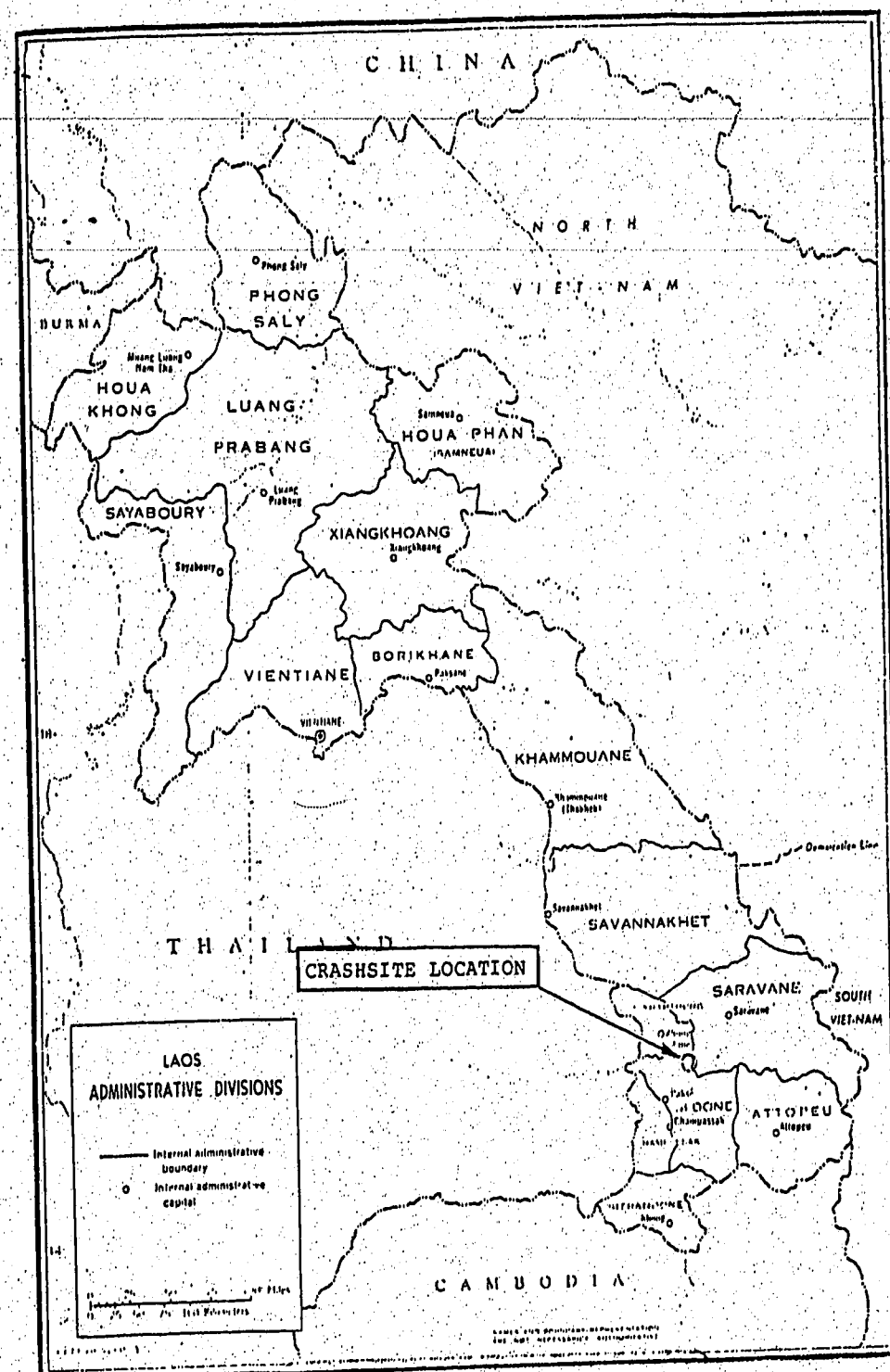
18. PRISONER RETURN—DENIAL OR DELAY

Articles 6 and 8(b) of the Prisoner Protocol state: "The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced." As applied to military personnel and foreign civilians this provision seems clear and desirable since the Geneva PW Convention permits continued detention after hostilities in the event of criminal trial and imprisonment. As applied to Vietnamese civilians, however, it raises the question whether all criminals must be released from the jails. It is necessary to read this provision in conjunction with Article 7 of the Prisoner Protocol which, in effect, defines the Vietnamese civilians whose return is required by the Agreement and the Protocol as those who have been captured or arrested and detained for the reason that they have contributed to the political and armed struggle. Read together, those provisions mean that a common criminal does not have to be released but that a person who is detained because of his participation in the conflict must be returned even if he has also been convicted of a crime. The difficult question in many cases obviously will be what is the reason for the arrest and detention, and we can anticipate arguments about many cases. In general, the intent of the negotiators was that where the primary or main reason was involvement in the armed struggle, incidental criminal charges or convictions would not justify denial or delay of return; similarly, a criminal may not demand release on the ground that he assisted the enemy if the main reason for his detention is criminal and unrelated to the conflict.

SPECTRE 17

The following case is printed to illustrate the details of an actual Search and Rescue (SAR) effort involving standard emergency equipment, as well as to describe the kind of follow-on activities often associated with combat losses. This case describes the initial loss, rescue, efforts of a Pathet Lao patrol on the scene, subsequent activities by a Royal Lao troop unit that ventured on the scene the day following the incident, and the development of additional information later. It should be noted that during an official meeting in Vientiane, Congressman Paul N. McCloskey (R-Calif.) offered to travel to the scene of the crash with a Pathet Lao escort to investigate the site and attempt recovery operations. The offer was refused by the Lao on the grounds that the area was still contested by insurgents.

"SPECTRE 17"



INCIDENT SUMMARY—SPECTRE 17

On 21 December 1972, SPECTRE 17, an AC-130 aircraft, was downed by anti-aircraft fire approximately 28 miles northeast of Pakse, Laos. The following sixteen USAF personnel were aboard the aircraft:

Maj Francis A. Walsh, Jr.
Maj Paul O. Meder
Capt Harry R. Lagerwall
Capt Thomas J. Hart, III
Capt Joel R. Birch (Remains recovered)
Capt Stanley N. Kroboth
Capt Robert L. Liles, Jr.
1st Lt Delmar E. Dickens
2nd Lt George D. MacDonald
TSgt Richard M. Williams (Recovered)
TSgt John W. Wingham
TSgt James P. Fuller
Sgt Carl E. Stevens, Jr. (Recovered)
A1C Charles F. Fenter
A1C Rollie E. Reald
Sgt Robert T. Elliot

Two crewmembers, TSgt Williams and Sgt Stevens, were subsequently recovered after voice contact was made with them. No other contact was made with any other crewmember. The following day, an indigenous ground team went into the area and recovered a forearm and a hand. However, the team was forced to leave the area shortly afterward because of heavy enemy ground fire. Upon examination, the fingerprints of the recovered hand were identified as belonging to Capt Joel R. Birch. The bodies of 13 crewmembers remain unaccounted for.

REPORTING SUMMARY

A PL political cadre reported that he was attending a meeting held at the Pathet Lao Khong Sedone District Headquarters at Ban Talang (WC 994 164) in early December 1972. At the conclusion of the five day meeting, the cadre returned to his headquarters (vicinity XC 084 123). Several days after his return on approximately 18 or 19 December at about 1900 hours the cadre heard the approach of what he believed was a "C-147." He then heard the aircraft explode, watched the descent of the aircraft, observed the area of impact, and then dispatched a squad to check the crashsite area. The squad returned at approximately 2400 hours and reported that the squad could not enter the actual crashsite area because of large burning fires. They did bring back five parachutes all with canopies opened, two of which were partially charred and three which were uncharred. The cadre decided to wait until the wreckage cooled before trying to reenter the crashsite area. Early the following morning, he directed search operations at the site located at XC 087 086. The cadre and squad members searched the immediate site and the surrounding area. He located two small piles of bloody bandages which suggested to him that one or more individuals had been able to get out of the aircraft alive. The wreckage was such that the cadre felt no one could have survived the impact. It appeared to him that those who were alive must have bailed out prior to the impact. He had seen no parachutes the previous evening following the initial explosion.

He stated that the crashsite contained various heavily charred human remains and there were no remains of entire bodies. He felt that there were at least five or six bodies which they found and subsequently buried in the immediate vicinity. He agreed that more bodies could have been in the aircraft which could have been completely burned in the fire prior to or after the crash.

He then directed a trench to be dug in a rocky area northwest of the burned area. This trench was one meter long, one to two meters deep, and 60 centimeters wide. All the remains were placed in the trench and covered with dirt and rocks.

In addition to this report, there have been several others that relate to the SPECTRE 17 downing on 21 December 1972.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., June 3, 1976.

Mr. J. ANGUS MACDONALD,
Staff Director, Select Committee on Missing Persons in Southeast Asia, House
of Representatives, Washington, D.C.

DEAR MR. MACDONALD: This letter is in response to a request from the House Select Committee on Missing Persons in Southeast Asia for comments pertaining to a report concerning the SPECTRE 17 incident. The enclosure to this letter provides a brief synopsis of the report in question and comments relating to "bandages" contained in the report.

Sincerely,

ROGER E. SHIELDS,
Deputy Assistant Secretary.

Enclosure.

REPORT REFERENCING "BANDAGES" RELATIVE TO SPECTRE 17 INCIDENT

On 11 October 1973, a former Pathet Lao political cadre reported that he had witnessed the explosion and crash of an aircraft one evening during the third week of December 1972. His information correlated well to the loss of a C-130 (Spectre 17) aircraft on 21 December 1972. This source provided very detailed accounting of his inspection of the crashsite and disposition of the charred remains found in the crashsite area.

In his account of the crashsite investigation, the source reported that shortly after the crash, he had sent a security squad to the area to locate any survivors. The squad returned and reported that it could not enter the actual crashsite area because of large burning fires. The squad did bring back two partially charred and three uncharred parachutes, all five with canopies opened. The following morning, the source and nine other individuals personally inspected the crashsite area. The source stated that "two small piles of bloody bandages" were located in the vicinity. He further reported that because of the impact and that "those who were alive must have bailed out prior to the condition of the wreckage it did not appear that anyone could have survived the impact." He had not seen any parachutes following the initial explosion.

Although the source stated that the items located were "bloody bandages," it must be taken into consideration that this was merely his opinion. The possibility exists that the items were parts of the parachutes or clothing of some of the crewmembers who were involved in the incident.

Considering the fact that the aircraft exploded in the air and taking into consideration the comments of the two crewmembers who were recovered within a few hours after the crash, it is extremely unlikely that any other crewmembers survived this incident. Both of the recovered crewmembers stated that the entire crew had believed that the aircraft commander could get the aircraft to safety and that no bailout had been ordered. One of the recovered crewmembers, on his own initiative, bailed out just before the aircraft exploded. The other recovered crewmember was blown from the aircraft after the explosion. None of the other crewmembers had exited the aircraft prior to the explosion. Neither of the two recovered crewmembers had any indication that anyone besides themselves survived the incident.

SPECTRE 17 SAR REPORT

Date: December 21, 1972.

Mission No.: 40-130.

Flight Dsgn.: Jolly Green 32.

Mission Objective: Two personnel from Spectre 07.

Location: 080/68/93.

Saves: Spectre 17 India and Juliet.

Additional SAR Forces: Spectre 07, Jolly Green 63.

Summary of SAR actions:

This is the Aircraft Commander's Mission Narrative for the recovery of Spectre 17 Juliet and India utilizing the night recovery system. The crews of Jolly Green's 32 and 63 were alerted at 21112134 to report to Jack. The crews

proceeded to the RCC and were informed that Spectre 17 was down at 080°/79°93. The crews received a quick intelligence briefing on the SAR area were informed that a 37mm AAA site had been reported firing in the immediate area approximately three weeks previous. Due to the AAA threat and knowledge that hostile ground forces were operating in the area, the crew of Jolly Green 32 felt that an NRS recovery presented the best possibility of a successful recovery of the survivors. A route of flight to the SAR area was selected; the Jolly Greens were to proceed southeast from Channel 89 down the Mekong River at 10,000 ft. MSL until intercepting the 080° radial off of TACAN Channel 93. At this point, Jolly Green 32 would proceed direct to the SAR area as Jolly Green 63, Non-NRS, equipped, remained in holding. The crews reported to their aircraft and Jolly Green 32 and 63 were airborne at 21/1235Z. Spectre 07 was the On-Scene Commander at this time as no King or Sandys were airborne. Shortly after takeoff, I, AC on Jolly Green 32, contacted Spectre 07 to determine the condition of the survivors. Spectre 07 radioed that contact had been established with Juliet and India and a search was continuing for other survivors. I then instructed Spectre 07 to relay to the survivors to prepare themselves for the pickup and to have their strobe lights with IR covers, radios, and night end of their flares immediately available. Lt. Rabaja, copilot of Jolly Green 32, was coordinating with Jack and learned that King 22 had aborted due to maintenance difficulties and that Spectre 07 would remain as On-Scene Commander. With no air refueling capability, I elected to proceed direct to the search area and to initiate an immediate run-in upon arrival. Jolly Green 32 and 63 intercepted the 080° radial of channel 93 at 1335Z and turned to a heading of 080°. At 60 DME I instructed Jolly Green 63 to remain in holding at this position while Jolly Green 32 continued to the search area. The Flight Engineers and Pararescue Specialists had completed all required checklists and Jolly Green 32 began a blacked out descent toward the reported survivors position of 080/79/93.

Lt Rabaja had determined that the highest terrain in the immediate area was 5200' MSL and I elected to descend to 5500' MSL for the run-in. Just as I departed Jolly Green 63, he reported taking ground fire. Sgt Bryant sighted this ground fire in Jolly Green 32's 4 o'clock but determined it was no factor.

While continuing the descent, I overheard Spectre 07 talking to Juliet. I obtained a UHF ADF bearing on the survivor which indicated he was in our 2 o'clock. This placed the survivor approximately 9 miles short of his reported position. Initially, I assumed the ADF bearing was on Spectre 07 who was also transmitting and not the survivor. When Juliet again transmitted, I obtained a second ADF bearing which placed him in our 3 o'clock position. I immediately turned to a heading of 180° and began talking to the survivors. Juliet and India were both transmitting and I instructed India to stand by as Juliet would be our first objective. The ILLTV was giving an excellent picture of all surrounding terrain, all high Karsts to the south and east of the search area were vividly displayed on the TV screen. Knowing that I could safely avoid all high terrain by utilizing the TV, I elected to continue the descent to 1000 ft. MSL, which resulted in approximately 400' terrain clearance. The crew of Jolly Green 32 were being greatly aided by the excellent illumination from the moon. I felt that any antiaircraft weapon sites would have an extremely hard time tracking the aircraft at this low altitude even if our aircraft was visually sighted. The burning wreckage was now visible in our twelve o'clock and Spectre 07 relayed that the survivor was just south of the wreckage. Spectre 07 had previously determined the position of the survivors by utilizing their IR equipment and the survivors IR strobes. I continued on a heading of 180° until the ADF bearing indicated Juliet was very close and in our 9 o'clock and then turned to a heading of 090°. Juliet called that we were approaching his position; therefore, I elected to immediately establish a 200 foot hover and engage the hover coupler. This was possible only because of the illumination given by the moon. Lt Rabaja quickly set up the coupler panel and engaged the system. Juliet continued to call that the helicopter was getting closer and attempted to give vectors. Each vector was 90 degrees in error. It was obvious the survivor was confused and I continued to obtain ADF bearings on his transmissions. As the aircraft taxied forward, the radar altimeter picked up the 100' trees and each time would immediately cause the aircraft to enter a rapid climb. The first time this happened, Lt. Rabaja, who was acting as safety pilot, took control of the aircraft to prevent the engines from being over-torqued. Sgt Stephens, No 1 PJ, was preparing to be lowered

when Sgt Walker, No 2 PJ, sighted Juliet's IR strobe in our 10 o'clock position at 200 meters. As I turned left, Lt. Rabaja picked up the strobe on the TV. The survivor was hiding under a very tall tree on the edge of a large clearing.

I continued taxiing forward and established a hover close to the survivor. There was one large tree very close on the left, and very dense jungle on the right and to rear. Lt. Rabaja lowered the aircraft to 150 ft. by using the radar altitude set knob. Sgt. Bryant started giving directions for hovering, and I then elected to transfer control to the aft hover trim stick. Sgt. Bryant attempted twice to hover the aircraft utilizing the aft stick but was unable due to the stick not being nulled out. I re-engaged the forward hover trim stick and established a hover over the edge of the clearing approximately ten meters from Juliet. Sgt. Walker began lowering Sgt. Stephens to the ground and Sgt. Bryant continued to give hover instructions. Just prior to the penetrator reaching the ground, Juliet called that he could see the penetrator and PJ. As the penetrator touched the ground, Juliet ran to it. Sgt. Stephens strapped him on and jerked on the cable to indicate they were ready to come up. The Hoist Operator raised them on board and I called India to give vectors if he could hear the helicopter. India radioed that the helicopter was east of his position. I started to turn left when I sighted what appeared to be four strobes without IR covers one-fourth mile to the north. I relayed to India that I was going to check out the strobes and return shortly. I quickly hover taxied toward the lights as Lt. Rabaja located the lights in the TV. He relayed that the lights were small fires from part of the wreckage. I then turned west and called India to give vectors. Each time he transmitted I would obtain an ADF bearing. After searching for five minutes, Sgt. Stephens located the L. Strobe and directed me to turn left. Again the strobe was very visible in the TV and I began hover taxiing towards India. When still 50 meters from the survivor, the radar altimeter again picked up a large tree and the aircraft began a very rapid climb and started turning due to the slow reaction of the tail rotor. I applied rudder and let the aircraft climb over the tree. During this maneuver, the crew lost sight of the survivor and we began searching for him again. At this time Spectre 07 proved invaluable, he called that India was in our 10 o'clock at 100 meters. By the use of his IR equipment, he gave vectors until the aircraft was hovering directly over India. I established a 150' hover over the survivor, who was hiding in very dense 100 foot trees. I attempted to get India to move to a clearing which was a short distance east. I could not make him understand.

Sgt. Bryant sighted a small opening in the trees and began lowering Sgt. Walker to the ground. The ground was covered with roots and vines six feet deep and although India had sighted the penetrator just prior to it reaching the ground, it took him about three minutes to move the 20 feet to it. The tall trees were making it very difficult to hold a stable hover, the radar altimeter kept picking up the blowing trees and caused the aircraft to change altitude. The PJ and survivor were almost impossible to see in the dense foliage and I could not hear Sgt. Walker transmitting to determine if he was ready to be raised. Sgt. Bryant took up the slack in the cable trying to determine if they were strapped on. Unable to feel them he again lowered the penetrator. This was fortunate in that Sgt. Walker had become entangled in the vines. Sgt. Walker freed himself and Sgt. Bryant began raising the penetrator. As the penetrator cleared the ground, the aircraft suddenly began a rapid move to the right. I applied maximum control to the left and regained control of the aircraft. However, due to the rapid movement the PJ and survivor were pulled through the trees. Sgt. Walker covered the survivor, who had lost his helmet, as they came through the trees. When they were again clear of the trees, Sgt. Bryant called to raise the aircraft. Lt. Rabaja increased the altitude on the radar altimeter set knob, and with the aircraft gaining altitude, Sgt. Bryant quickly raised them to the aircraft. With Juliet and India on board, we climbed to 2,000' and began a search for other survivors. No other survivors could be raised on the radios and no other strobes could be sighted. At 1445Z we departed the SAR area due to our low fuel state. I turned west and climbed to 10,000 feet. Upon reaching the Mekong River I instructed the FE to turn on the exterior lights so that Jolly Green 63 could rejoin. As Jolly Green 63 was rejoining, he again called ground fire, 23mm, which was being directed at our aircraft. We immediately extinguished our exterior lights and received no more ground fire. After joining up, we turned north and recovered at NKP at 1550Z without further incident.

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S E 4 JOPREP JIFFY/40ARRS-RCC/RESCUE 321/211600Z DEC 72 SECTION 1

OF TWO

1. (U) RESCUE OPENING REPORT 21 DEC 72

2. (U) MISSION NUMBER: 40-130 21 DEC 72

3. (S) SITUATION: AC 130 (SPECTRE 17) DOWNED BY HOSTILE FIRE IN STEEL TIGER. 2 CREWMEMBERS RESCUE, REMAINDER MISSING.

A. DESCRIPTION OF SAR OBJECTIVE:

(1) AC130/490/CAMOUFLAGED/SPECTRE 17

(2) FLIGHT PLAN: TACTICAL

(3) PILOT: CAPT HARRY R. LAGERWALL, 063-30-1937, 16505 UBON RTAFB THAILAND.

(4) POD: 16

(5) WEATHER IN AREA: CLEAR, 7 MILES VISIBILITY WITH HAZE

(6) SURVIVAL EQUIPMENT: USAF STANDARD

(7) LAST KNOWN POSITION: 1530N 10611E

B. ACTIONS TAKEN:

Classification canceled (changed
by authority of 57001-R-3-200 37 Dec 74

PAGE 2 RUMOREA4692

(1) 40ARRS-RCC NOTIFIED OF SAR INCIDENT BY LION CRP AT 211212Z DEC 72.

(2) TIME SAR FORCES ALERTED:

(A) 40ARRS NOTIFIED AT 211213Z

(B) 56ARRS NOTIFIED AT 211213Z

(C) 354TFW NOTIFIED AT 211213Z

(3) TIME SAR FORCES LAUNCHED:

(A) JOLLY GREENS 32/63 (HH-53C) 40ARRS LAUNCHED AT 211235Z

(B) SANDIES 11/12/13 (A-7) 354TFW LAUNCHED AT 211329Z

(C) SAR OBJECTIVES TAKEN TO NAKHON PHANOM RTAFB THAILAND.

C. PERSONNEL INFORMATION:

(1) 16 PERSONS INVOLVED, 2 LOCATED, 2 RECOVERED, 2 SAVED, 14 MISSING.

(2) LOCATING AGENCY:

(A) SPECTRE 17 INDIA AND JULIET LOCATED BY JOLLY GREEN 32 AT 1350Z COORDINATES 1530N 10611E

(3) RECOVERY AGENCY:

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(A) SPECTRE 17 INDIA AND JULIET RECOVERED BY JOLLY G.
METHOD USED: FOREST PENETRATOR.
D. FLYING ACTIVITY THIS DATE:

32

PAGE 3 RUMOREA4692

(1) 40ARRS 2 SORTIES FOR 6.5 HOURS

(2) 354TFW 3 SORTIES FOR 6.2 HOURS

(3) 23TASS 2 SORTIES FOR 5.2 HOURS

(4) 16505 2 SORTIES FOR 4.2 HOURS

E. SAVES DATA:

(1) RCC MAKING SAVES:

(A) CAPT JERRY W. SHIPMAN 40ARRS

(2) PERSONS SAVED:

(A) TSGT RICHARD M. WILLIAMS 16505

(B) SGT CARL E. STEVENS JR 16505

(3) 2 ARRS COMBAT COMBAT AIRCREW MEMBER SAVES

F. FUTURE PLANS:

(1) NAIL (OV-10) FAC'S ARE FRAGGED TO THE SAR SCENE THROUGH OUT THE NIGHT. ALL AIRCRAFT TRANSITING THE AREA WILL MAINTAIN ELECTRONIC SURVEILLANCE. ANY INDICATIONS WILL BE THOROUGHLY INVESTIGATED. SHOULD ANY SURVIVORS BE LOCATED SAR FORCES WILL BE LAUNCHED IMMEDIATELY.

(2) SAR FORCES AVAILABLE FOR 22 DEC 72:

(A) 4 HH-53C 40ARRS

(B) 2 HC-30 56ARRS

PAGE 4 RUMOREA4692

(C) 9 A-7 354TFW

6. SUMMARY OF SAR ACTIONS:

(1) 40ARRS-RCC NOTIFIED OF SAR INCIDENT AT 211212Z THAT SPECTRE 17 HAD BATTLE DAMAGE, WAS LOSING FUEL AND HYDRAULIC SYSTEM WAS OUT. AT 1214Z LION CRP LOST RADIO AND RADAR CONTACT ON A 080 DEGREE RADIAL 71 MILES FROM CHANNEL 93. DISCO (EC121) REPORTED BEEPER ACTIVITY IN THE AREA. JOLLY GREENS 32/62, KING 22 AND SANDIES 11/12/13

WERE SCRAMBLED. SPECTRE 07 AND 12 (AC-130) WERE ON SCENE WITH SPECTRE 07 ASSUMING ON SCENE AND AIRBORNE MISSION COMMANDER. AT 1224Z VOICE CONTACT WITH INDIA WAS ESTABLISHED AND AT 1228Z SPECTRE 07 HAD VOICE CONTACT WITH JULIET. JOLLY GREENS 32/63 WERE IN THE SAR AREA AT 1345Z AND FIRST RUNIN FOR JULIET BEGAN AT 1350Z. AT 1406Z JULIET WAS ON

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BOARD AND JOLLY GREEN 32 PROCEEDED TO LOCATION OF INDIA. BOTH SURVIVORS WERE ON BOARD AT 1420Z AND JOLLY GREENS 32/63 WERE RTD TO CHANNEL 89. NO OTHER BEEPER OR VOICE CONTACT WAS ESTABLISHED. KING 22 AIR ABORTED DUE TO NUMBER 2 ENGINE MALFUNCTION. JOLLY GREEN 32 REPORTED THIS WAS 2 NIGHT RECOVERY SYSTEM PICKUPS. PARARESCUEMEN WERE LOWERED ON BOTH

PAGE 5 HUMOREA4692 [REDACTED] SURVIVORS PICKUPS. BOTH SURVIVORS ARE IN GOOD CONDITION. SURVIVORS STATED THEY WERE BLOWN FROM THE AFT SECTION OF THE AIR CRAFT AND THEY ARE DOUBTFUL THERE ARE ANY OTHER SURVIVORS. AIRCRAFT WAS AT 11000 FEET AND EXPLODED IN MIDAIR. JOLLY GREENS 32/63 LANDED AT NAKHON PHANOM RTAFB AT 1550Z.
(2) AREA SEARCHED: 10NM RADIUS OF 1530N 10611E
(3) SPECTRE 07 ASSUMED AMC AT 211212Z
(4) NO AERIAL REFUELINGS WERE ACCOMPLISHED THIS DATE IN SUPPORT OF MISSION.
(5) THE NIGHT RECOVERY SYSTEM WAS USED IN SUPPORT OF THIS MISSION.

(6) JOLLY GREEN 32 CREW ACCOUNTING OF THE SUCCESSFUL USE OF THE NIGHT RECOVERY SYSTEM.

(A) ON ENTERING THE AREA JOLLY GREEN 32 (NIGHT RECOVERY SYSTEM EQUIPPED) INSTRUCTED JOLLY GREEN 63 (NON NRS) TO HOLD HIGH AND ACT AS A COMM RELAY. JG 32 WAS THEN VECTORED INTO THE IMMEDIATE AREA BY SPECTRE 07 AND DESCENDED TO 5500 FEET WHICH GAVE TERRAIN CLEARANCE WITH A 90 PERCENT MOON AND CLEAR SKY. THE LLLTV PICTURE WAS PERFECT WITH DETAILS OF THE AREA AND ALL HIGH TERRAIN. JG 63 REPORTED

PAGE 6 HUMOREA4692 [REDACTED] GROUND FIRE AND A ROCKET FIRING IN HIS HOLDING AREA AND DESCENDED TO A LOWER ALTITUDE AND CHANGED HOLDING AREA. JG 32 CONTINUED TO DESCEND FOR CONCEALMENT FROM THE GUINS. THIS WAS POSSIBLE BECAUSE OF THE EXCELLENT QUALITY OF THE TV PICTURE WHICH PERMITTED TERRAIN FOLLOWING. DURING THE DESCENT JG 32 HEARD JULIET SURVIVOR TRANSMITTING AND USED ADF TO GET A BEARING TO THE SURVIVOR. JG 32 IS NOT ELECTRONIC LOCATION FINDER (ELF) EQUIPPED. ELF WOULD HAVE PROVIDED IMMEDIATE LOCATION OF THE SURVIVOR. JG 32 CONTINUED TO TAKE ADF BEARINGS UNTIL THE SURVIVOR PASSED THE THREE OZ A TURN IN THE DIRECTION OF THE SURVIVOR

WAS MADE AND JG 32 LEVELLED AT 200 FEET AGL. DUE TO THE CLOSE PROXIMITY OF THE SURVIVOR A 200 FOOT HOVER WAS ESTABLISHED AND THE HOVER TRIM COUPLER ENGAGED. JG 32 CONTINUED TO HOVER IN THE DIRECTION OF THE ADF BEARINGS. AT APPROXIMATELY 200 METERS THE PJ USING 40 PERCENT NIGHT VIEWING GOGGLES SIGHTED THE SURVIVOR'S STROBE. IMMEDIATELY THE STROBE WAS SIGHTED IN THE TV. JG 32 THEN ESTABLISHED A HOVER OVER THE SURVIVOR. THE SURVIVOR WAS ON THE EDGE OF A CLEARING AND STATED LATER THAT HE DID NOT SIGHT THE HELICOPTER

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JOPREP JIFFY/40ARRS-RCC/RESCUE 321/211600Z DEC 72 FINL

SECTION OF TWO

UNTIL IT WAS 1500 METERS AWAY. A PJ WAS LOWERED TO THE GROUND AND THE SURVIVOR SIGHTING HIM COMING DOWN AND WALKED OVER TO THE PJ. BOTH WERE HOISTED ABOARD JG 32 WHO HAD BEEN IN A HOVER FOR 20 MINUTES. VOICE CONTACT WAS ESTABLISHED WITH INDIA AND SPECTRE 07 GAVE ACCURATE DIRECTIONS TO WITHIN 20 METERS OF THE SURVIVOR. THIS SURVIVOR WAS LOCATED IN DENSE FOILAGE WITH 100 FEET TREES. JG 32 ESTABLISHED A HOVER OVER THE SURVIVOR AT TREE TOP LEVEL. THE SURVIVOR'S STROBE WAS VISIBLE ON THE TV AND TO THE CREWMEMBER WITH NVG. THE SURVIVOR STATED LATER THAT HE HAD OBSERVED THE HELICOPTER MAKING THE FIRST PICKUP APPROXIMATELY 200 FEET AWAY AS IT WAS SILHOUETTED AGAINST THE MOON. HOWEVER THE SURVIVOR COULD NOT SEE THE HELICOPTER DIRECTLY OVERHEAD. A PJ WAS LOWERED THROUGH THE TREES TO THE GROUND

PAGE HUMOREA4693 [REDACTED] WHICH WAS COVERED WITH DENSE INTERMINGLED ROOTS. THE NVG'S PROVIDED THE PH WITH EXTREMELY GOOD VISION. THE SURVIVOR WAS LOCATED AND BOTH MEN HOISTED UP. THE NVG'S WERE RIPPED OFF THE PJ AS HE WAS BEING HOISTED UP THROUGH THE TREES. RECOVERY OF INDIA WAS MADE IN 18 MINUTES. ADDITIONAL SURVIVORS COULD NOT BE LOCATED AND THE JG'S WERE RTD TO CHANNEL 89.

(B) SPECIFIC ITEMS:
(1) APPROACH COUPLER WAS NOT UTILIZED BECAUSE OF THE LOW FLIGHT PROFILE USING THE LLLTV.
TERRAIN FOLLOWING MADE POSSIBLE BY THE MOON ILLUMINATION.

(2) THE AC-130 WAS OF GREAT VALUE IN LOCATING INDIA
(3) ELF WOULD HAVE ENABLED IMMEDIATE LOCATION.
(4) NRS MAINTAINED EXCELLENT OBSTRUCTION CLEARANCE WHILE HOVERING OVER THE TERRAIN.
(5) ALTHOUGH HOSTILE FORCES WERE IN THE AREA JOLLY GREEN 32 DID NOT RECEIVE GROUND FIRE. THE SURVIVORS COULD

NOT SEE THE HELICOPTER UNTIL IT WAS WITHIN 200 METERS.
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by Authority of [REDACTED]
[REDACTED] 3/14/73

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TO 40ARRS

RUMORUA/16505 UBON RTAFB THAI

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CLASSIFICATION CANCELED (REASON: 1.1) BY AUTHORITY OF 10185/000 LTR 23 JUL 75 FOR 10185/000 LTR 23 JUL 75

1. (U) RESCUE PROGRESS REPORT NUMBER TWO.
2. (U) MISSION NUMBER: 40-130 21 DEC 72.
3. (S) SITUATION: SPECTRE 17 (AC-130) DOWN IN STEEL TIGER LAOS.

C. PERSONNEL INFORMATION:

- (1) 10 PERSONS INVOLVED: 2 LOCATED, 2 RECOVERED, 2 SAVED, 14 MISSING.

- (2) LOCATING AGENCY: NO PERSONS LOCATED OR RECOVERED THIS DATE.

D. FLYING ACTIVITY:

- (1) 40ARRS 2 SORTIES FOR 8.5 HOUR.

- E. SAVES DATA THIS DATE: NO SAVES.

F. FUTURE PLANS:

- (1) ALL AIRCRAFT TRANSITTING THE SAR AREA WILL MAIN-

PAGE 2 RUMOREAU0140 3501130 5555--RUMTFJA.

DEBRIEF GROUND TEAM WHEN COMMUNICATIONS ARE AVAILABLE.

- (2) SAR FORCES AVAILABLE FOR 24 DEC 72.

- (A) 4/HH-53 40ARRS

- (B) 9/A-7 354 TFW

- (C) 2/HH-130P 40ARRS

G. SUMMARY OF SAR ACTIONS:

(1) COMMUNICATIONS WITH L-11 (GROUND PARTIES LOCATION) IS OUT DUE TO CABLES BEING CUT. THEREFORE NO DEBRIEFING WAS RECEIVED FROM THE GROUND PARTY. THE HUMAN REMAINS WERE TRANSFERRED FROM L-11 LAOS TO UBON RTAFB THAILAND AND THEN TO UBON RTAFB THAILAND, ARRIVING AT 231050Z. ALL AIRCRAFT TRANSITTING THE SAR AREA MAINTAINED AN ELECTRONIC SURVEILLANCE. NEGATIVE RESULTS WERE REPORTED.

- (2) ARE SEARCHED: NONE.

- (3) KING 22 ASSUMED AMC AT 221900Z, KING 21

ASSUMED AMC AT 230145Z.

(4) NO AERIAL REFUELLINGS WERE ACCOMPLISHED THIS DATE IN SUPPORT OF MISSION.

(5) NO AUXILIARY SAR EQUIPMENT WAS USED THIS DATE IN SUPPORT OF MISSION.

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CLASSIFICATION CANCELED (REASON: 1.1) BY AUTHORITY OF 10185/000 LTR 23 JUL 75 FOR 10185/000 LTR 23 JUL 75

1. (U) RESCUE SUSPENDING REPORT.

2. (U) MISSION NUMBER: 40-130 21 DEC 72.

3. (S) SITUATION: AC-130 (SPECTRE 17) DOWNED BY HOSTILE FIRE IN THE STEEL TIGER LAOS. TWO CREWMEMBERS RESCUED REMAINDER MISSING.

C. PERSONNEL INFORMATION:

- (1) 10 PERSONS INVOLVED: 2 LOCATED, 2 RECOVERED, 2 SAVED, 14 MISSING.

- (2) LOCATING AGENCY:

- (A) SPECTRE 17 INDIA AND JULIET LOCATED BY JOLLY GREEN 32 AT 211350Z COORDINATES 1530N 10611E.

- (3) RECOVERY AGENCY:

- (A) SPECTRE 17 INDIA AND JULIET RECOVERED BY JOLLY GREEN 32 METHOD USED: FOREST PENETRATOR ASSISTED BY DEPLOY.

PAGE 2 RUMOREAU0236 3591330 5555--RUMTFJA.

MENT OF A PARARESCUEMAN.

- (4) SAR OBJECTIVES TAKEN TO NAKHON PHANOM RTAFB THAILAND.

- D. FLYING ACTIVITY THIS DATE: NONE

- E. SAVES DATA:

- (1) RCC MAKING SAVES:

- (A) CAPT JERRY W. SHIPMAN, 40ARRS

- (2) PERSONS SAVED:

- (A) TSgt RICHARD M. WILLIAMS 16505

- (B) SGT CARL E. STEVENS JR, 16505

- (3) 2 ARMS COMBAT AIRCREW MEMBER SAVES

G. SUMMARY OF SAR ACTIONS:

(1) 40ARRS WAS NOTIFIED AT 211212Z THAT SPECTRE 17 HAD TAKEN BATTLE DAMAGE. LION CHIEF LOST RADIO AND RADAR CONTACT AT 2214Z ON A 080 DEGREE RADIAL 71 MILES FROM CHANNEL 93. BEEPER ACTIVITY WAS NOTED AND VOICE CONTACT WAS ESTABLISHED WITH INDIA AND JULIET AT 2228Z. JOLLY GREENS 32/63 HAD LAUNCHED FROM CHANNEL 09 AND WERE IN THE SAR AREA AT 1345Z WITH ASSISTANCE OF

10185/000 LTR 23 JUL 75
 10185/000 LTR 23 JUL 75
 10185/000 LTR 23 JUL 75

UNCLASSIFIED

IMMEDIATE

PT 00045

(130) AND THE USE OF THE NIGHT RECOVERY
SPECTRE SURVIVORS WERE ON BOARD AT 1420Z. NAIL
SYSTEM BC

JHEAU236

PAGE 3 AC'S AND SPECTRE (AC-130) GUNSHIPS WERE IN THE AREA
(OV-10) UNDER OF THE NIGHT BUT NO OTHER CONTACTS WERE REPORTED.
THE FNIC SURVEILLANCE HAS BEEN MAINTAINED SINCE WITH NEGATIVE
ELECTS. A GROUND PARTY RECOVERED HUMAN REMAINS OF 22 DEC 72.
RE REMAINS WERE TAKEN TO UBON RTAFB ON 23 DEC 72. NO
ATIVE IDENTIFICATION OR DEBRIEF AVAILABLE AT THIS TIME.
TOTAL FLYING TIME FOR HIS MISSION FROM OPENING

J SUSPENDING:

- (A) 40ARRS 2 SORTIES FOR 6.5 HOURS.
- (B) 56ARRS 4 SORTIES FOR 24.0 HOURS.
- (C) 354TFW 3 SORTIES FOR 6.2 HOURS.
- (D) 23 TASS 6 SORTIES FOR 24.0 HOURS.
- (E) 16 SOS 2 SORTIES FOR 4.2 HOURS.
- (F) AREA SEARCHED 20NM RADIUS OF 1530N 10611E.
- (G) NO AMC THIS DATE.
- (H) NO AERIAL REFUELINGS WERE ACCOMPLISHED THIS DATE
IN SUPPORT OF MISSION.
- (I) NO AERIAL REFUELINGS WERE ACCOMPLISHED ON THIS
MISSION FROM OPENING TO SUSPENDING
- (J) NO AUXILIARY SAR EQUIPMENT WAS USED IN SUPPORT OF

PAGE 4 RUMORLA0236

THIS MISSION ON THIS DATE
(B) THE NIGHT RECOVERY SYSTEM WAS USED IN SUPPORT OF
THIS MISSION.
(7) MISSION 40-130 SUSPENDED AT 241200Z DEC 72
WITH CONCURRANCE OF PARENT UNIT AND 7AF DUE TO LACK OF ANY
INDICATIONS FROM REMAINING CREWMEMBERS.
GUS 31 DEC 00.

UT
H0236

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UNCLASSIFIED

IMMEDIATE

IMMEDIATE

UNCLASSIFIED

22 DEC 72 15 42

ACTION: DRMSC (1)

CC: NA DC
FC: LGS
TP:

Dec 22 10 15 '72

SE: AF
AC: SM
SS: DE
OPM: DPMSC RTO

72-2253

Notified Sgt Simrell/DPM/1051/22

IMMEDIATE

PT 00640

OTTSZYU RUMORLA0236 3571454-SSSS--RUMTFJA.

ZNY SSSSS

221405Z DEC 72

FM 40ARRS RCC NAKHON PHANOM RTAFB THAI

TO AIG 7980

RUMORUA/16505/UBON RTAFB THAILAND

BT

JOPREP JIFFY/40ARRS-RCC/RESCUE 327/221100Z DEC 72.

1. (U) RESCUE PROGRESS REPORT NUMBER 1.
2. (U) MISSION NUMBER: 40-130 21 DEC 72.
3. (S) SITUATION: SPECTRE 17 (AC-130) DOWNED BY HOSTILE FIRE
IN STEEL TIGER, LAOS.

(C) PERSONNEL INFORMATION:

- (1) 16 PERSONS INVOLVED, 2 LOCATED, 2 RECOVERED, 2 SAVED,
14 MISSING.

(2) LOCATING AGENCY: NO PERSONS LOCATED OR RECOVERED THIS
DATE.

(D) FLYING ACTIVITY THIS DATE:

- (1) 56ARRS 2 SORTIES FOR 15.5 HOURS
- (2) 23 TASS 4 SORTIES FOR 18.8 HOURS.

(E) SAVES DATA THIS DATE: NO SAVES THIS DATE.

(F) FUTURE PLANS:

PAGE 2 RUMORLA0236

(1) CONTINUE TO MONITOR AREA FOR BEEPER OR VOICE AND AWAIT FOR
GROUND TEAM TO DEBRIEF.

(2) SAR FORCES AVAILABLE FOR 23 DEC 72:

- (A) 4 HH-53 40ARRS
- (B) 9 A-7 354TFW
- (C) 2 HC-130P 56ARRS

(G) SUMMARY OF SAR ACTIONS:

(1) NAIL 51 (OV-10) VISUALLY SEARCHED THE 10 MILE RADIUS OF THE
CRASH SITE. NEGATIVE BEEPER OR VOICE CONTACT WAS ESTABLISHED.
WITH SURVIVORS. A GROUND PARTY REACHED THE CRASH SITE AT 220300Z
SEARCH. AT 221130Z WORD WAS RECEIVED THAT THE GROUND PARTY HAD RE-
COVERED SOME HUMAN REMAINS. THE REMAINS WILL BE TRANSPORTED TO
UBON RTAFB ON 23 DEC TIMES AND TYPES OF AIRCRAFT TO TRANSFER THE
REMAINS WILL BE RECALLED ON THE 23RD.

(2) AREA SEARCHED: 10NM RADIUS 1530N 10611E BY AIR. 1NM RADIUS
1530N 10611E BY GROUND PARTY.

(3) KING 22 ASSUMED AMC AT 211530Z DEC 72.

KING 21 ASSUMED AMC AT 220210Z DEC 72.

REPRODUCED (27 DEC 72) BY DPMSC

REPRODUCED COPY OF 14 COPIES

IMMEDIATE

UNCLASSIFIED

SMR1621

QUESTIONS SUBMITTED TO MS. LINDA FERGUSON BY THE SELECT COMMITTEE AND
ANSWERS THERETO

Question. What did you mean when you said you did not request a case review
for financial reasons?

Answer. When the status was changed from MIA to PFOD, the accumulated
pay in the USSDP account became available to me. Had there been commercial
insurance, or had I been the beneficiary of my husband's Servicemen's Group
Life Insurance policy, those payments would have been made also. When I said
that I did not request a status review for financial reasons, I meant that my
decision was not based on a need or desire to have the USSDP account avail-
able for any specific purpose at this time.

Question. Are you a Member of the National League of Families?

Answer. Yes.

Question. Did you voluntarily withdraw?

Answer. I became a member of the League in 1970, and I have voluntarily withdrawn.

Question. Now that your husband has been presumed dead, do you think his status will affect the possibility of an accounting?

Answer. No, I do not think that the presumptive finding will affect the possibility of an accounting; and I would have waited until a later date to request the review if I had felt that the change in status would have had that effect.

Question. A hypothetical question . . . If the Vietnamese or the Laotians were to tell us that a jet plane crashed on December 30, 1969 and was destroyed to a degree that it was impossible to determine whether there was anyone in the plane—and that they captured none—would you consider that an acceptable accounting?

Answer. I would consider that an acceptable accounting only if a U.S. military team or an international team were allowed safe access to the crash site to verify the report made by the North Vietnamese or the Laotians.

Question. Based on your testimony, I would say that your husband and his pilot should have been declared KIA at the time of his crash.

(a) Why do you think the Air Force listed him as MIA?

(b) In retrospect, would you have preferred to have had his status KIA instead of MIA?

(c) In your opinion, are there many similar cases of misclassification?

(d) Were you misled by the optimistic correspondence from the Air Force?

If so, how would you recommend the Services handle this type problem in the future?

Answer. (a) Search efforts were not authorized due to the hostile nature of the area where the plane went down. Eye witness statements have proven fallible. In my opinion the decision to classify my husband MIA was based on a commitment to provide absolute certainty. I believe that the Air Force felt that at least after the war ended, information in this and similar cases would be obtainable.

(b) In retrospect, I feel that the motive for the MIA status was honorable in 1969. Even civilians can appreciate the need to exercise caution in determining a man's status in a combat situation. I wish that in 1973, however, in light of the Pathet Lao's refusal to submit a list of any kind, that the status had been reevaluated. That would have been legal and honorable. Unfortunately, status reviews were halted.

(c) In my opinion there are similar cases in which reclassifications should be made now. I wouldn't have referred to these as "misclassifications" during the war. Today, however, I say they are in need of reclassification.

(d) I think it is natural when a loved one is missing, we are optimistic. I wanted nothing more than my husband's return, and that state of heart and mind were not controlled by anything specific that the Air Force communications contained. I do not believe that I was purposely misled by the Air Force. Defense Department estimations of accounting efforts were inaccurate, as were assurances by the State Department that "complete lists" would be issued by NVN and Laos. They had no reason to believe with certainty that these lists would be complete or that they would be issued within a reasonable time frame. I shall never forget the nightmare of waiting for those lists and discovering that my husband's name was not on the first list. Then there were conflicting reports regarding the completeness of the first list. Were the POW's in Laos on the list? It was a mess, very poorly handled. In the future I would recommend that the services be better prepared for this aspect of the situation. Communications to the MIA families broke down there.

Question. You said statements on his chances of survival were classified. It seems that the enemy knew as much or more about the case than the wingmen? Did anyone tell you why they were classified?

Answer. No, I do not know why the eyewitness statements were classified.

Question. Eventually, the Defense Department will have to review all open cases. Did you consider holding off on your request for a hearing until a routine review was scheduled?

Answer. Yes, I considered it, but not knowing when that "routine review" would take place, and not being able to ascertain even an approximated time for that, I chose to act.

Question. What was your reaction when you made your request for a hearing, and how have you felt since?

Answer. I felt good. I was confident that I had made the right decision. Since the review, I feel relieved of a great burden. Friends and family who were reluctant to tell me what they thought about this situation have now come forth to offer their support. Air Force Academy classmates and pilots with whom my husband was stationed have offered assurances that this was what had to be done.

Question. You said your in-laws were opposed to a status change and were anguished by your request.

(a) How has that affected your relationship with them?

(b) Do many other wives suffer the same problem?

Answer. (a) The relationship is strained. It is unfortunate. I think my husband's parents and his sister are disappointed and feel that their views have not been taken into account. There is resentment. Their suggestion that I seek a divorce was most upsetting.

(b) I am certain that other, but not all, wives and parents have experienced and are experiencing similar problems as they try to cope with this difficult and unusual predicament.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., 13 April 1976.

Mr. J. ANGUS MACDONALD,
Staff Director, House of Representatives, Select Committee on Missing Persons in Southeast Asia, Washington, D.C.

DEAR MR. MACDONALD: Attachment 1 is a chronology of dates on which lists concerning Americans missing in Laos were forwarded to various Laotian agencies. These lists were basically in the same format that was developed by JCRC and used to pass information to the Provisional Revolutionary Government (PRG)/Democratic Republic of Vietnam (DRV) Delegations to the Four Party Joint Military Team (FPJMT).

On 20 August 1973 the folder of LTC David L. Hrdlicka (Laos) was passed to the DRV Delegation to the FPJMT. On 27 August the DRV forwarded an official memorandum which returned the folder and reiterated the position that the DRV was not responsible for an accounting of persons other than in North Vietnam and that the U.S. must deal directly with the governments concerned. Consequently, there were no further attempts to pass case folders dealing with those MIAs in Laos and Cambodia to the PRG/DRV Delegation to the FPJMT because such attempts could possibly generate such an adverse reaction that DRV/PRG delegations might refuse to accept any further case folders.

Some of the initial lists the American Delegation to the FPJMT gave to the Democratic Republic of Vietnam and the Provisional Revolutionary Government contained the names of all U.S. personnel lost in Southeast Asia.

There were continuing efforts to resolve the issue of the missing in Laos prior to the first formal exchange of lists; however, the Pathet Lao refused to discuss this problem until protocols in implementing agreements to form a coalition government were signed. The protocol, signed September 14, 1973, did require exchange of lists of the missing. At that time, an intensified effort was begun to acquire information from every available source about missing Americans. The response from the Communists has never been encouraging.

Sincerely,

RAYMOND A. VOHDEN,
Captain, USN, Principal Advisor, PW/MIA Affairs.

July 3, 1973: Laos MIA/BNR lists presented to Phagna Phoumi Vongvichit, Special Plenipotentiary Representative of the Patriotic Forces (Pathet Lao).

December 20, 1973: Laos MIA/BNR lists passed to Mr. Soukan of the Royal Laos Government (RLG).

March 4, 1974: Computer listing of MIAs and killed with bodies not returned (BNR) passed to Mr. Soukan Vilaysarn, Chairman, RLG, Delegation to the Joint Central Committee.

April 1974: Coalition Government formed in Laos.

June 1974: Computer listings of MIA/BNR sent JCCIA Area Coordinators, International Red Cross UNHCR (Mr. Zenger), Canadian I.C.C. Delegate (LtCol Newell), Indian I.C.C. Delegate (Brigadier Michigan), and Polish I.C.C. Delegate.

July 1974: JCCIA PW-MIA Subcommittee addressed the PW exchange issue.
 September 30, 1974: JCRC provided Mr. Zenger, International Red Cross Commission a list of Americans missing in Laos.

October 1974: Laos MIA/BNR lists were provided to Mr. Zenger, International Red Cross for submission to the JCCIA, and to the JCCIA Area Coordinators.

December 20, 1974: According to a local press release January 9, 1975, XAT LAO reported that the Vientiane side presented the list of missing in action to the PL on Nov. 14 and Dec. 20, 1975, but has received no response. The list of missing includes 4,895 Laotians, 567 Americans, and 643 Thais.

November 1974: Laos MIA/BNR lists were given to: The POW-MIA Committees of the Provisional Government of National Union and the Lao Patriotic Front, International Red Cross, Indian Delegate to ICC, Polish Delegate to ICC, Australian Attache, British Attache, French Attache, Chief of the Vientiane Military Police.

UNITED NATIONS GENERAL ASSEMBLY,
 November 14, 1974.

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY ON THE REPORT OF THE
 THIRD COMMITTEE (A/9829)

3220 (XXIX). *Assistance and co-operation in accounting for persons who are missing or dead in armed conflicts*

The General Assembly,

Recalling that one of the purposes of the United Nations is the promotion of international co-operation in solving international problems of a humanitarian character,

Regretting that, in violation of the principles of the Charter of the United Nations, resort to force has continued to occur, causing loss of human lives, widespread devastation and other forms of human suffering,

Reaffirming that it is one of the fundamental obligations of Member States to ensure and promote international peace and security by preventing or ending armed conflicts,

Recognizing that one of the tragic results of armed conflicts is the lack of information on persons—civilians as well as combatants—who are missing or dead in armed conflicts,

Noting with satisfaction resolution V, adopted by the twenty-second International Conference of the Red Cross held at Teheran from 28 October to 15 November 1973, calling on parties to armed conflicts to accomplish the humanitarian task of accounting for the missing and dead in armed conflicts,¹

Bearing in mind the inadmissibility of a refusal to apply the Geneva Conventions of 1949,²

Reaffirming the urgent need to ensure full adherence to, and effective implementation of, the Geneva Conventions of 1949 on the protection of war victims by all States, in particular those signatories to the Geneva Conventions of 1949,

Considering that the desire to know the fate of loved ones lost in armed conflicts is a basic human need which should be satisfied to the greatest extent possible, and that provision of information on those who are missing or who have died in armed conflicts should not be delayed merely because other issues remain pending,

1. Reaffirms the applicability of the Geneva Conventions of 1949 to all armed conflicts as stipulated by those Conventions;

2. Calls upon parties to armed conflicts, regardless of their character or location, during and after the end of hostilities and in accordance with the Geneva Conventions of 1949, to take such action as may be within their power to help locate and mark the graves of the dead, to facilitate the disinterment and the return of remains, if requested by their families, and to provide information about those who are missing in action;

3. Appreciates the continuing efforts of the International Committee of the Red Cross to assist in the task of accounting for the missing and dead in armed conflicts;

4. Calls upon all parties to armed conflicts to co-operate, in accordance with the Geneva Conventions of 1949, with protecting Powers or their substitutes

¹ See *International Review of the Red Cross*, No. 154 (January 1974).

² United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

and with the International Committee of the Red Cross in providing information on the missing and dead in armed conflicts, including persons belonging to other countries not parties to the armed conflict;

5. Requests the Secretary-General to bring the present resolution to the attention of the second session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

EXCERPTS FROM THE CONFIRMATION HEARINGS OF DR. HENRY KISSINGER AS
 SECRETARY OF STATE, SEPTEMBER 7, 10, 11, AND 14, 1973

ACCOUNTING FOR MISSING IN ACTION

Senator CHURCH. May I ask you a question or two concerning the missing in action? As a part of the cease-fire agreement, it is my understanding that the North Vietnamese promised to cooperate in giving us a full accounting of the missing in action. As I recall, there were some 1,300 Americans that we listed as missing in action at the time that this agreement was entered into. How many of these 1,300 have been accounted for to date?

Mr. KISSINGER. I do not believe, Senator, that any of them have been accounted for adequately. It has been one of the unsatisfactory aspects of the implementation of the agreement. If they have been accounted for, it has been through the testimony of prisoners who could give us some account of, say, the death of a person who was missing, or some other disposition. The North Vietnamese were supposed to permit American teams to go to the grave sites and to exhume bodies and to give us other information.

When I was in Hanoi in February, I brought some 80 files of individuals who we had reason to believe had been captured. In some cases these included pictures of individuals who looked like the missing persons, who had been seen being captured or in some prisoner group. In other cases, we gave very detailed circumstances. They told us they would make an immediate investigation. So far we have not had any results of that. Other files have been turned over to them of the best information we have. The only cooperation we have received is the visit to one grave site of, I think, some 23 Americans who died in captivity in North Vietnam. I am not absolutely sure that that number is correct. It has been one of the most unsatisfactory aspects of the implementation of the agreement. In Laos, actually, we have more reason for concern, because the ratio of prisoners to those that we have reason to believe parachuted is smaller than it is in any other part of this area. We have been promised that, upon the conclusion of the agreement which is now in the final stages of being negotiated, we would be given the opportunity to search in Laos.

It may be somewhat easier to do it there because the agreement should produce, or is designed to produce a central government not under North Vietnamese control.

But the answer to your question, Senator, unfortunately, is that we are extremely dissatisfied with the results of the implementation of that part of the agreement, and that it is one of the reasons why we cannot proceed in certain other areas such as economic aid negotiations.

WAS RUSSIAN OR CHINESE AID ENLISTED IN SOLVING MIA PROBLEM?

Senator CHURCH. On behalf of the National League of Families of American Prisoners and Missing in Southeast Asia, the committee has been requested to ask you whether you have enlisted the aid of the Russians or the Chinese in solving this MIA problem?

Mr. KISSINGER. In every conversation that I have had with high Chinese or Soviet officials, I have raised this issue, and when I go to Peking I will again bring it to the attention of the Chinese leaders.

FURTHER STEPS TO SECURE NORTH VIETNAMESE COMPLIANCE WITH MIA PROVISION

Senator CHURCH. As Secretary of State, if confirmed by the Senate, can you tell us what further steps you have in mind that you might take to secure compliance by the North Vietnamese of this very important provision of the agreement?

Mr. KISSINGER. Senator, one of the results of our continuing disengagement from Indochina is that the pressures and incentives that we have available are also shrinking. We will not be able to proceed with the implementation of the economic assistance provisions, or the negotiation of those, until we have achieved a more satisfactory compliance with the missing-in-action provisions of the agreement. We will use diplomatic pressure to the extent that it is available to us, and we will have to make clear to the North Vietnamese that the normalization of relations with them which we would otherwise seek and welcome, is severely inhibited by their slow compliance with the missing-in-action provisions.

I may say that as Assistant I have regularly met with the League of Families including a few weeks ago when they had their convention here, and it is rather a profound human experience to meet with these families—

Senator CHURCH. I know—

Mr. KISSINGER [continuing]. And I will continue to give it my personal attention.

Senator CHURCH. Thank you very much, Dr. Kissinger, for your answer. My time is up.

PURSUIT OF INFORMATION CONCERNING MISSING IN ACTION

Senator PELL. Dr. Kissinger, first, I want to underscore what has already been said regarding the unsatisfactory state of the pursuit of information regarding the missing in action. I would like to include in that concern the missing foreign correspondents, including Welles Hangen, Sean Flynn and others. Would it be your intention to pursue this situation constantly and vigorously in an effort to relieve the concern of all the persons affected?

Mr. KISSINGER. You are correct, Senator. It would be my intention to pursue this vigorously and energetically, as indeed I have done in my present position.

ADMINISTRATION'S PLANS TO ACCOUNT FOR MIA'S IN LAOS

Senator CASE. Dr. Kissinger, I have been advised by our staff that a Mr. Walter Wojcik representing 38 MIA families in New Jersey has called and asked that you be asked two questions which I would like to ask you now.

First, given the fact that the United States was not a party to the Laos cease-fire agreement and that the agreement says very little on accounting for MIA's, what does the administration plan to do to get an accounting for MIA's in Laos?

Mr. KISSINGER. With respect to the missing in action in Laos, this matter was covered first in the Paris agreement between the United States and North Vietnam and it was the subject of subsequent negotiations in the June negotiations between the United States and Hanoi. We have a commitment from the North Vietnamese that they will take an active interest in this question, and that the provisions for an accounting for the missing in action will be scrupulously observed.

The North Vietnamese know very well that the normalization of our relation with the, and any further consideration of economic aid, depend on a satisfactory resolution of the issue of the missing in action, not just in Vietnam but throughout Indochina.

I expressed on Friday our substantial dissatisfaction with the way in which the North Vietnamese have carried out the provisions of the agreement as they apply to Vietnam, and, of course, we have not had any fulfillment of them with respect to Laos. But we make no distinction between Laos and Vietnam, and we will press all parties equally throughout Indochina.

Now, after the agreement is concluded in Laos, there is supposed to be a central government established, headed by Prime Minister Souvanna Phouma. It may be easier to get that government to implement the provisions to account for the missing in action than has been the case with respect to the North Vietnamese. But it is a major objective of the administration, especially in Laos where the ratio of prisoners to missing is much less satisfactory than it is in Vietnam.

Senator CASE. Thank you.

EIGHTY-THREE IDENTIFIED MIA'S

Senator PELL. In connection with the previous questions concerning the missing in action, the question was not posed concerning the 83 Americans who have

been identified in either pictures or by those who returned home. Can any extra effort be made to try to find out what happened to them and then perhaps move on to the question of the majority of the others as being legally dead.

Mr. KISSINGER. Those are the Americans whose files we turned over to the North Vietnamese.

Senator PELL. These 83.

Mr. KISSINGER. Yes, about whom I made personal representations to Prime Minister Phan Van Dong in Hanoi and once again to Le Duc Tho when I met him in May and June in Paris—but I regret to say with very little success. You can be sure that those about whom we have good evidence that they have been identified are the ones about whom we can be most vocal and most convincing.

Senator PELL. Thank you.

RESPONSE OF DR. HENRY A. KISSINGER TO QUESTIONS SUBMITTED BY SENATOR PEARSON FOR THE RECORD

Question 1. Why was no timetable established in the Paris Agreement for the accounting of our missing and the return of our dead? 2. Do you believe our government should take a stronger public position on the failure of the other side to live up to the terms of the Paris Agreement in accounting for our missing men? 3. Why have our known dead not been returned? 4. Should you be confirmed as Secretary of State, what are your plans for resolving the missing in action issue?

Answer. In view of the interrelationship of those questions concerning the status of the POW's and MIA's, the following single answer will respond to all four questions.

As I indicated in response to similar questions from Senators Church and Case, the Administration shares your concern about the Communist side's failure to live up to its obligations. The Vietnam Agreement, signed on January 27, 1973, contained specific requirements for accounting for the missing and return of the dead. No timetable was specified because we hoped action on this humanitarian matter would begin at once, without being linked to other aspects of the Agreement, and that efforts would continue as long as it was required, until satisfactory results were obtained. In any event it was impossible to predict how long even an all out genuine process would take, and we didn't want to have an arbitrary cut-off after which the other side might claim it need make no further effort.

We are seriously dissatisfied with the other side's performance on this subject—it has been one of the most unsatisfactory aspects of the implementation of the Agreement.

I can assure you, however, that we are determined to seek scrupulous fulfillment of the Agreement signed last January 27 and to secure as full an accounting as possible of all our men throughout Indochina. In an address on Armed Forces Day, May 19, 1973, the President expressed the Administration's concern in the following words:

"The cooperation which North Vietnam promised to give us in making a full accounting for Americans listed as missing-in-action has not been satisfactory. And I can assure you that we must and will insist that this promise, this pledge, this solemn agreement be kept, because just as America never broke faith with our prisoners of war, I can assure you today we will not break faith with those who are reported missing in action. They must all be accounted for by the North Vietnamese."

The Administration has taken a number of steps to seek compliance with the accords:

During my trip to Hanoi February 10-13, we provided files concerning the circumstances involved in cases of our missing personnel.

This information was supplemented by complete lists given to the Communist side by the U.S. delegation on the Four Power Party Joint Military Team (FPJMT) of all U.S. personnel missing in Indochina and lists of those we list as having died but whose remains were not recovered.

The U.S. delegation to the FPJMT has pressed repeatedly for further information. The team visited North Vietnam twice in May and viewed the graves of 23 U.S. pilots identified as having died in captivity. However, there has been no progress on exchange of information on repatriation of remains.

The U.S. delegation to the FPJMT has also raised questions concerning the international journalists missing in Cambodia, and we have worked closely with the committee of journalists seeking their release.

The U.S. Embassy in Laos has repeatedly raised with representatives of the Pathet Lao side the subject of the many U.S. personnel missing in Laos, and we have taken this matter up with the North Vietnamese as well. We have been promised that upon the implementation of the Laos Protocol, which is scheduled to be signed September 14, we will be able to search in Laos. We, therefore, expect to receive more information on the fate of our personnel who are missing there.

Search teams from the Joint Casualty Resolution Center (JCRC) located in Thailand have conducted operations in Government-controlled areas in South Vietnam and have found some remains on the basis of which some cases may be resolved. Regrettably the other side has refused to cooperate in this effort and has effectively barred the JCRC from searches in Communist-controlled sections of South Vietnam as well as in Laos and North Vietnam. However, we have stressed the peaceful, open and humanitarian nature of the JCRC, and we will continue to press for cooperation by the other side in the JCRC's efforts.

On June 13, 1973, in a Joint Communique signed by the Democratic Republic of Vietnam and the United States, the two parties reaffirmed their solemn commitment to implement fully the January Agreement, including in particular the provisions for accounting of all the Missing in Action throughout Indochina.

On July 29, 1973, the U.S. Government delivered a diplomatic note to the Democratic Republic of Vietnam strongly protesting the continuing failure of North Vietnam and its allies to fulfill their obligations and calling for prompt action by the Communist side. The complete text of the note is attached for your information.)

I have pointed out in my testimony that one of the results of our continued disengagement from Indochina is that the pressures and incentives we have available are also shrinking. However, the other side clearly understands that we will continue to insist on full compliance and that we will not be able to proceed with the Agreement's economic assistance provisions for example, until we have achieved more satisfactory compliance. We will, of course, use diplomatic pressure to the extent that it is available to us, and we will continue to make it clear to the North Vietnamese that normalization of relations with them, which we would otherwise seek and welcome, is severely inhibited by their slow compliance with the missing-in-action provisions of the Agreement.

TEXT OF U.S. NOTE CONCERNING MISSING IN ACTION DELIVERED TO THE DEMOCRATIC
REPUBLIC OF VIETNAM, JULY 29, 1973

In view of the fact that more than six months have elapsed since the signing of the January 27, 1973 Agreement on Viet-Nam and more than six weeks since the signing of the Joint Communique of June 13, 1973, the USG notes with serious concern that the Democratic Republic of Viet-Nam has failed to comply with Article 8B of the Agreement and paragraph 8E of the Joint Communique which require the parties to "Help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action." Although there have been continuing discussions of these subjects in the FPJMT, the Democratic Republic of Viet-Nam has refused to cooperate in the necessary actions to implement this basic humanitarian obligation.

The United States Government has provided complete lists of American personnel listed as missing in action with requests for information. No information has been provided. The United States Government has repeatedly sought to arrange the repatriation of remains of Americans who died in captivity. No remains have been repatriated.

The accounting for the missing and the repatriation of remains are purely humanitarian obligations unrelated to other issues. They could have been largely carried out by now if a spirit of good will and cooperation had been manifested on this subject. This would have brought solace to the families and loved ones of the more than 1,300 Americans listed as missing, and of those who have died but whose bodies have not been returned.

The United States Government calls again on the Democratic Republic of Viet-Nam to help get information on the military personnel and foreign civilians of the parties missing in action. This can be accomplished promptly by responding

to the request for information on the lists that have already been provided. The United States Government would be pleased to provide additional data on specific cases to assist in getting such information. The United States Government also requests the Democratic Republic of Viet-Nam promptly to accomplish the exhumation and repatriation of remains, and to enable the JCRC to carry out its humanitarian mission.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

COUNTER-PROPOSED FINAL DECREE, 73 CIV. 3190 (CMM)

ELLEN P. McDONALD, EARLYNE M. THOMAS, GLADYS E. PARKS, DONNA DARR AND
PHYLLIS MELINN, PLAINTIFFS

v.

JOHN McLUCAS, ACTING SECRETARY OF THE AIR FORCE, HOWARD H. CALLAWAY,
SECRETARY OF THE ARMY, AND JOHN W. WARNER, SECRETARY OF THE NAVY,
DEFENDANTS

Plaintiffs, having filed their complaint herein on July 19, 1973, and issue having been joined on September 17, 1973, and upon the Memorandum Decision of the Honorable Charles M. Metzner, dated August 6, 1973, as amended by the Order herein, dated August 8, 1973 and as further amended in the transcript of proceedings held on August 9, 1973, referring this matter to the Chief Judge of this Circuit for certification and reference to a Three-Judge Court, and upon such certification by the said Chief Judge of this Circuit, Honorable Irving E. Kaufman, and upon the agreed facts contained in the "Statement of Facts Stipulated to by the Parties and of Contested Facts" dated October 19, 1973 as filed herein, there being no issues of contested facts considered by this Court, and upon the hearing held before this Court on October 23, 1973, and upon the opinion of this Court dated February 13, 1974.

On motion of Paul J. Curran, United States Attorney for the Southern District of New York, attorney for defendants, it is hereby,

ORDERED, ADJUDGED AND DECREED, that this action may not be maintained as a class action, and it is further

ORDERED, ADJUDGED AND DECREED, that Sections 555 and 556 of Title 37 of the United States Code are, from the date of this decree, declared unconstitutional on their face and as applied insofar as they permit "official reports of death" and "findings of death" to be made without affording notice and an opportunity to be heard, and it is further

ORDERED, ADJUDGED AND DECREED, that the defendants are permanently enjoined from the date of this decree from making "official reports of death" and "findings of death" under Sections 555 and 556 of Title 37 of the United States Code unless the next-of-kin of a serviceman carried as missing in action and currently receiving governmental [financial] benefits which could be terminated by a status review are given notice of a status review and afforded a reasonable opportunity to attend a hearing, with a lawyer if they so choose, and are given reasonable access to the information upon which the status review will be based and are permitted to present any information which they consider relevant to the proceeding, and it is further

ORDERED, ADJUDGED AND DECREED, that the procedure set forth in the ordering paragraph immediately preceding need only be applied to those next-of-kin, currently receiving governmental benefits which could be terminated by a status review, who demand it after notice.

Dated: New York, New York, March 5, 1974.

WM. H. TIMBERS,
CHARLES M. MCIZNEE,
CHARLES L. BRAUNT, Jr.

EXCHANGE OF DIPLOMATIC NOTES

On March 12, 1976, the Select Committee on Missing Persons in Southeast Asia met with Secretary of State Henry Kissinger. The Committee urged the Secretary to initiate actions leading to direct discussions between the Govern-

ment of the United States and the governments of Vietnam, Laos and Cambodia on the issue of missing Americans.

The following exchanges of diplomatic notes occurred largely as a result of this and other Select Committee efforts.

TEXT OF UNITED STATES NOTE OF MARCH 26, 1976

His Excellency NGUYEN DUY TRINH,
Minister for Foreign Affairs,
Democratic Republic of Viet-Nam.

DEAR MR. MINISTER: Congressman G. V. Montgomery, Chairman, and other members of the Select Committee on Missing Persons in Southeast Asia of the United States House of Representatives, have informed me about their recent visit to your country and have asked me to express their appreciation for the hospitality shown the Committee by your Government. Representative Montgomery has also told me of expressions by members of your Government of interest in discussions looking toward eventual normalization of relations between Viet-Nam and the United States.

The United States has expressed its willingness to look to the future in its relationships with Viet-Nam. I believe that the interests of peace and security will benefit from placing the past behind us and developing the basis for a new relationship between our two countries.

We are prepared to open discussions with your Government in pursuit of this objective. I would appreciate receiving your views on such discussions and on what you believe might be the procedures and issues involved.

Best regards,

HENRY A. KISSINGER.

TEXT OF VIETNAMESE NOTE OF APRIL 10, 1976

MR. SECRETARY OF STATE: I have received your note dated March 26, 1976.

The Government of the Democratic Republic of Viet-Nam has repeatedly declared its willingness to discuss with the Government of the United States an early settlement on the outstanding problems relating to Viet-Nam and the United States after the war in accordance with the provisions of the Paris Agreement on Viet-Nam, such as the U.S. contribution to the healing of the wounds of war and the postwar reconstruction in the two zones of Viet-Nam: the search for information about U.S. M.I.A.'s; the exhumation and repatriation of the remains of the dead Americans . . . on this basis, the DRV will normalize its relations with the United States in keeping with the spirit of Article 22 of the Paris Agreement on Viet-Nam. The Government of the Democratic Republic of Viet-Nam has always shown by practical deeds its serious attitude and its good-will in the carrying out of this very reasonable policy.

It is very regrettable that until now the U.S. side has shirked its obligation of contributing to the healing of the wounds of war and the post-war reconstruction of Viet-Nam, and that it has even taken hostile acts against the Vietnamese people and made discourteous and tendentious statements against the Government of the Democratic Republic of Viet-Nam.

If your Government is really willing to negotiate a normalization of relations with the DRV, it should adopt a good-willed and serious attitude like the DRV.

The Government of the Democratic Republic of Viet-Nam is prepared to consider specific proposals of your Government.

Best regards,

NGUYEN DUY TRINH,
Minister for Foreign Affairs,
Democratic Republic of Viet-Nam.

TEXT OF UNITED STATES NOTE OF MAY 8, 1976

The Department of State presents its compliments to the Ministry of Foreign Affairs of the Democratic Republic of Viet-Nam and has the honor to confirm receipt of the letter of April 10 from Minister for Foreign Affairs Nguyen Duy Trinh to Secretary of State Henry A. Kissinger.

The Department reaffirms the willingness of the United States Government to enter into discussions with the Government of the Democratic Republic of Viet-Nam at an early date. In doing so, it wishes to point out that talks on the

basis of the selective application of past agreements, which appears to be the objective of the Democratic Republic of Viet-Nam, would not be fruitful and would only lead to sterile debate rather than constructive discussion.

The United States believes that it would be more useful for representatives of the two Governments to discuss issues affecting future relations between our two countries. The humanitarian concern of a full accounting for our missing men will be one of the primary issues of the United States in such discussions. Until this issue is substantially resolved, there can be no real progress towards normalization of relations between our two countries.

At the same time the Democratic Republic of Viet-Nam will be free to raise any issue of concern to it. The United States invites the Government of the Democratic Republic of Viet-Nam to indicate whether it considers a meeting to discuss outstanding issues useful.

NOTE OF THE D.R.V.N. FOREIGN MINISTRY TO THE U.S. STATE DEPARTMENT

The Foreign Ministry of the D.R.V.N. has received the U.S. State Department's note dated May 8, 1976.

Since the complete liberation of South Viet Nam, the Foreign Ministry of the D.R.V.N. has, on repeated occasions, made clear its views the Paris Agreement on Viet Nam. The unilateral U.S. denunciation of the Agreement is aimed at evading the pledges it has solemnly undertaken in signing the Agreement, especially article 21 which provides for a U.S. obligation to contribute to healing the wounds of war and to post-war reconstruction in Viet Nam and Indochina without setting any political conditions on the other hand, the United States demands that the Democratic Republic of Viet Nam implement article 8 (b) of the Agreement as a condition for a normalization of relations between the two countries. Obviously, it wants to renege its obligations under the Paris Agreement on Viet Nam while demanding that the other side implement another article of the same. This completely runs counter to international law and practice.

For its part, the Democratic Republic of Viet Nam has expressed its willingness to discuss with the United States a settlement of post-war issues that concern Viet Nam and the United States such as the U.S. contribution to healing the wounds of war and post-war reconstruction in the two zones of Viet Nam, the search for information about Americans missing in the war and the exhumation and repatriation of the remains of the dead Americans. The Government of the Democratic Republic of Viet Nam has made and will continue to make efforts to relieve the anxiety of those American families whose relatives have died or are still considered missing in Viet Nam.

Once again, the Government of the Democratic Republic of Viet Nam affirms its serious and goodwill attitude. It holds that the two sides should resolve the issues of interest to each of them, thus creating favorable conditions for a normalization of relations between the two countries. As an initial step, the Democratic Republic of Viet Nam representative is prepared to meet with the U.S. representative in Paris for an exchange of views. If it really wants "early discussions" with the D.R.V. Government with a view to normalization of relations between the two countries the U.S. Government itself should adopt a goodwill and serious attitude.

The Foreign Ministry of the Democratic Republic of Viet Nam takes this opportunity to renew to the U.S. State Department the assurance of its high consideration.

HA Noi, June 19, 1976.

U.S. NOTE OF JULY 19, 1976

The Department of State has received the Note dated June 19 of the Ministry of Foreign Affairs of the Democratic Republic of Viet-Nam.

The United States agrees that discussions between representatives of our two governments in Paris would be appropriate and useful. The United States would expect to be represented at any such meeting by the Deputy Chief of Mission of its Embassy in Paris, and suggests that it be held in the American Embassy or at another mutually agreed-upon site.

The United States welcomes the assurances of the Vietnamese government that it will undertake efforts to relieve the anxiety of those American families whose relatives have died, or are still considered missing in Viet-Nam. A full

accounting for those Americans missing-in-action and the return of the remains of those killed is a matter of primary concern to the United States. Resolution of this basic humanitarian issue will be a fundamental consideration of the United States in any discussions.

The United States does not consider that it has an obligation to provide reconstruction assistance to Viet-Nam, as the Ministry of Foreign Affairs alleges in its Note. As the United States has made clear many times, it intends to look to the future rather than the past as far as its relations with Viet-Nam are concerned. The relations should develop on the basis of reciprocal interests.

If the above suggestions for a meeting are satisfactory, the United States would be prepared to discuss and work out a mutually convenient date for our representatives to meet, as well as procedures for such a meeting.

VIETNAMESE NOTE OF AUGUST 28, 1976

The Ministry of Foreign Affairs of the Socialist Republic of Viet-Nam has the honor to acknowledge receipt of the Note dated 19 July 1976 from the Department of State of the United States of America.

The Government of the Socialist Republic of Viet-Nam, has, on many occasions, expressed its point of view on the Paris Agreement and on the normalization of relations between Viet-Nam and the United States. This point of view has also been reaffirmed in the 19 June 1976 Note addressed to the United States.

Concerning the meetings between the representatives of the two parties in Paris, the Socialist Republic of Viet-Nam suggests as follows: The Counsellor of the Embassy of Viet-Nam in Paris will be the representative of the Socialist Republic of Viet-Nam; the meetings will take place outside the chanceries of each party and will be alternately arranged by the two parties.

If the American party agrees, the liaison officers of the two parties can meet with a view to discussions of the date and place for the first meeting.

EFFORTS OF U.S. ARMY IN RESOLVING IDENTIFICATION OF KIA

The following extract from the actual file of a Vietnam MIA whose remains were recovered has been provided by the U.S. Army Memorial Affairs Agency. All casualty names and dates have been changed to protect the individual's identity.

FOREWORD

Our national tradition for resolving the identification of our war dead and expeditiously returning the remains to next of kin for burial has never been more in evidence than for the Vietnam War. Long standing military tradition and the wishes of the next of kin are the foundation of this precept.

In fulfilling this long standing obligation, the Army has developed a series of sophisticated scientific procedures which, when followed, enable the services to arrive at the final goal, the positive identification of the deceased serviceman.

This paper demonstrates one case in which a variety of scientific procedures and studies were employed to achieve the identification of the fatality; and clearly demonstrates the tenacious attitude of the services in pursuing all possible avenues of approach which may ultimately lead to the identification of an unknown deceased serviceman.

[Signature].

U.S. ARMY MEMORIAL AFFAIRS AGENCY,
Washington, D.C., June 1973.

On (date) 1968, Master Sergeant John Doe of a Special Forces Group became a Missing in Action (MIA) casualty. He was last seen on a combat operation when his unit engaged a hostile force in a firefight.

M/Sgt. Doe's unit left base camp at approximately 0400 hours on (date) 1968. Upon reaching the deployment area at approximately 0830 hours, the unit started a sweep of search and clear southward. At approximately 1215 hours, contact with the enemy was made. Contact was initiated by the enemy. Communication with the task force element was lost after the initial contact message was received by base control. At approximately 1415 hours supporting aircraft reported several Vietnamese Special Forces were making their way toward base location.

wounded. Upon arrival, several were questioned about the status of the US Army Special Forces (USASF) personnel. Some reported that SFC Smith and M/Sgt. Doe were KIA. This information was never confirmed by U.S. personnel. Others reported that two other U.S. soldiers were also KIA; these were later confirmed.

For two days, a search and recovery operation was conducted in the area of contact for Wounded in Action (WIA) and Killed in Action (KIA). Forty-three South Vietnamese and two (2) USASF KIA's were recovered.

Eleven South Vietnamese and two (2) USASF (SFC Smith and M/Sgt. Doe) remained Missing at the end of the recovery operation. Several later recovery operations were conducted near and around the area of operation with negative results.

Four years later, a villager, named "WAH" stated he had witnessed an old man, who was a friend of his, bury a U.S. Army soldier at a specified location near the battle area.

A Search and Recovery (S&R) Mission was launched to recover the reported remains. The team was briefed by an American officer who was the Province Advisor. The S&R team was accompanied by the Province Advisor, the Villager "WAH" and a small team of Kit Carson Scouts with a U.S. Army NCO advisor. The Senior District Advisor joined the team and they were flown to the area of the grave site, arriving at 1415 hours.

After arrival at the grave site a search was made of the surrounding area for clues or evidence of identity with negative results. The grave was located approximately 12 feet from a small stream of irrigation ditch, covered by heavy underbrush and weeds. After clearing the site, the grave was dug to a depth of 4 1/2 to 5 feet where remains were uncovered. Visual examination of bones confirmed the race as Caucasian. Recovery of the remains was difficult due to the muddy soil. Approach of nightfall and the precarious security of the area forced the team to withdraw, and precluded a full recovery of the remains.

Items recovered with the remains included socks (GI-OD Type), two buttons from an Army fatigue uniform, a pair of tweezers and scissors (medical aid kit type), comb, and a blue ballpoint pen (Ballerina—U.S. Government) printed thereon. The team withdrew and returned to Saigon with the recovered remains. Departure of the area was 1635 hours, with arrival in Saigon at 1750 hours.

Two weeks later, a second recovery mission was made to the grave site. The team enlarged the grave on all sides (6'-10') and deepened it (6'-8') in an effort to recover additional portions of the remains. After three (3) hours of careful digging and searching, only a few fragments of bones were recovered. The recovery was returned to Saigon for processing and was consolidated with the first recovery.

Eight (8) bone and one (1) hair specimen were submitted to the U.S. Army Medical Research Laboratory, Fort Knox, Kentucky for blood group determination. The findings support a Blood Group "O" for the bone specimens, with an "Inconclusive" finding for the hair specimen.

Physical processing of the consolidated skeletal remains resulted in the following findings:

Race—Caucasian
Estimated height—70.2 inches
Estimated age—22-26 years
Hair—Brown
Build—Medium
Blood type—"O" (based on bone specimens to Fort Knox)

These remains were checked for association with all known casualties for the 100 KM grid square. The only possible association was with M/Sgt. Doe; however, the association was not positive due to the 10-year contradiction in age with Sergeant Doe who was 36 years of age at time of death, and the lack of other positive points of identification, i.e. teeth, etc.

Physical Anthropologist, Michell S. Ferris, U.S. Army Mortuary, Saigon re-studied the remains for age determination and utilizing standard methods (Morphological Alterations) of pubic symphysis and ossification and closure of the epiphyses again estimated the age as 22-26 years of age at death. Mr. Ferris recommended remains be forwarded to Dr. Ellis R. Kerley, Chairman, Department of Anthropology, University of Maryland for measurement of histological characteristics of the cortex of long bones, i.e. femur, tibia, etc.

Before sending the remains to Dr. Kerley, it was decided Army Anthropologist Dr. Tadao Furue, U.S. Army Mortuary, Japan, should examine the skeletal material of age criteria.

Dr. Furue found the following:

Race—Caucasian

Age—20-24 years

Height—5'9 5/8"

Muscularity—Average (medium build)

Bone abnormality—Stiff right thumb (Evidence of bone injury to metacarpophalangeal joint)

A review of medical records for M/Sgt. Doe failed to reveal the type of injury indicated by Dr. Furue's findings.

At this point, it was decided that a microscopic osteon count to determine age was in order, and the remains were sent to Dr. Ellis R. Kerley, University of Maryland for examination. Dr. Kerley's final analysis was the age criteria of the skeletal material falls between the 26-36 year range.

In turn, the remains were forwarded to the Division of Physical Anthropology, Smithsonian Institution for gross morphology age determination. Dr. T. Dale Stewart, Physical Anthropologist (Emeritus), found the skeletal material to be in the 25-30 year age bracket, generally in the neighborhood of 30 years. That was still short of the 36-year age factor for M/Sgt. Doe at the time of his death. Despite matching points of identification, the consensus on age findings did not substantiate positive identification of the remains of M/Sgt. Doe.

Remains	Master Sergeant Doe
Race.....	Caucasian
Age.....	Fort Knox, 22 to 26 yr.
	Dr. Furue, 20 to 24 yr.
	Dr. Stewart, 25 to 30 yr (30).
	Dr. Kerley, 26 to 36 yr (31).
Height.....	Fort Knox, 5 ft 10.2 in.
	Dr. Furue, 5 ft 9 5/8 in.
Blood type.....	O
Hair.....	Brown
Scars.....	NA
Injury.....	Dr. Furue, metacarpo-phalangeal joint (stiff right thumb)
	Caucasian, 36 yr at death.
	5 ft 10 in.
	O.
	Brown (sandy reddish tint), (Wrist right).
	None noted.

In view of the findings, it was considered that one additional procedure should be tested before closing the case. It was decided that X-Ray transposition of skeletal cranial and facial features should be tested. It was felt this procedure would either prove or disprove the identification as M/Sgt. Doe. Dr. Tadao Furue is considered to be the foremost expert in this procedure. Accordingly, late in November 1972, the remains were again forwarded to Dr. Furue for the purpose of effecting this delicate and painstaking procedure.

The procedure provides for a superimposing evaluation of skull bone versus photographs of the individual fatality. In general, one unfavorable superimposition may rule out the identity; on the contrary, one favorable superimposition is not considered to be sufficient enough to declare a positive identification. In this case, Dr. Furue was able to pose seven (7) sets of superimposition, all in excellent agreement.

In addition, photographs of M/Sgt. Doe show the left thumb to be normal, but the right thumb is swollen. The metacarpo-phalangeal joint, right thumb, has a deformity which corresponds to the swollen area on Sergeant Doe's right thumb. This is considered to be additional corroboration of the identification.

M/Sgt. Doe was reported by his parent unit to be in the general area of the recovery site when he became missing in action (MIA) in 1968. The skeletal remains together with medic equipment were recovered from an isolated grave, and Sergeant Doe would have carried a medical kit on a combat operation. The matching of height, blood type, and hair on the remains correlated with like characteristics reported for M/Sgt. Doe. The injury to the metacarpo-phalangeal joint (right thumb) on the remains would have accounted for the swollen area depicted on right thumb of photograph for M/Sgt. Doe. Exhaustive study resulted in negative association with all other known casualties for the same 100 KM grid square. Superimposition of skull photographs on several different pre-casualty photographs of M/Sgt. Doe was favorable and none of the overlapping photography revealed any contradictory evidence. Analysis of all of the foregoing comparisons by expert witnesses confirmed without a doubt that the remains are in fact those of M/Sgt. John Doe.

[H. Res. 1454, 94th Congress, 2d Sess.]

RESOLUTION

Resolved, That (a) notwithstanding section 5 of House Resolution 385 of the 94th Congress, adopted September 11, 1975, the Select Committee on Missing Persons in Southeast Asia shall transmit its report to the House with respect to the results of its investigation as soon as practicable, but not later than noon on January 3, 1977.

(b) Notwithstanding section 6 of such Resolution, the authority granted in such Resolution shall expire thirty days after the filing of the report of the Select Committee with the House or just prior to noon on January 3, 1977, whichever occurs first.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., January 21, 1976.

Mr. J. ANGUS MACDONALD,
Staff Director, House Select Committee on Missing Persons in Southeast Asia,
House Office Building, Washington, D.C.

DEAR ANGUS: The U.S. Armed Forces expended a much greater effort in search and rescue missions during the conflict in Southeast Asia than in any previous war. Improved equipment and methods of search and rescue, and in part the nature of the conflict, significantly reduced the percentage of unaccounted for servicemen upon cessation of hostilities.

After the return of the acknowledged prisoners of war, there were 2,518 American servicemen who were in a missing status or who were killed in action but whose remains had not been recovered. This represents approximately 4.3 percent of the total deaths resulting from the conflict. By comparison, 22 percent of those killed in World War II were not recovered. Coincidentally, this same percentage (22) applied to the Korean War.

Through February 1973, Air Force records reflect a total of 2,541 combat rescues. This included 174 in North Vietnam, 776 in Laos, and 1,591 in South Vietnam. Additionally, 66 aircrew members were rescued in Thailand and 17 crewmen were saved in Cambodia for a total of 2,624 men recovered. A Navy study shows that 273 of their downed airmen were saved through search and rescue missions. There is some redundancy in the numbers of rescued. The Air Force records include those from all Services who were recovered by the Air Force. Some aircrew members were picked up more than one time.

Statistics for aircrew rescues are more easily compiled than those efforts associated with ground losses. The nature of ground combat makes accurate documentation of rescue efforts all but impossible; however, the 1,010 Army and Marine personnel who are either missing or who were killed and whose bodies were not recovered represent approximately 1.8 percent of the total combat deaths. This extremely low percentage attests to the success of rescue efforts. The extensive resources and concerted efforts devoted to the search and recovery of our men in Southeast Asia resulted in saving many who would otherwise have been lost.

Sincerely,

ROGER E. SHIELDS,
Deputy Assistant Secretary.

UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS,
Washington, August 2, 1976.

HON. G. V. MONTGOMERY,
Chairman, House Select Committee on Missing Persons in Southeast Asia, House
Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: During my appearance before your Committee on July 21, you and other members referred to a letter from President Nixon to North Vietnamese Prime Minister Pham Van Dong. It was requested that this letter be made available to the Committee in order to determine whether or not the allegation by North Vietnam that it contained a commitment of U.S. aid to North Vietnam was correct.

You will recall that this matter came up during the Committee's meeting with Secretary Kissinger on March 12, 1976. The Secretary noted that he could not produce presidential papers but assured you and the other members that on the basis of his own review of the record of the exchanges, no such commitment

existed. He indicated that Congressional prerogatives had been strongly defended in these exchanges and that any figures mentioned had been in the context of planning targets only.

The Congress has already been provided any documents relating to the Paris Agreement which could be construed as containing or constituting a government-to-government commitment. In order to be as helpful as possible to you and your Committee, I have been authorized to summarize the contents of President Nixon's message to Prime Minister Pham Van Dong.

The President's message did not contain any pledges or promises of aid; it was merely a restatement of our agreement, as set out in Article 21 of the Paris Agreement, to participate in the postwar reconstruction of North Vietnam. The purpose of the letter was to advise the North Vietnamese of our preliminary financial estimates of the composition of our reconstruction program, to propose the establishment of a Joint Economic Commission to coordinate this reconstruction effort, and to record our understanding that each party would implement the recommendations of the Joint Economic Commission in accordance with its own Constitutional procedures. This letter referred, of course, to the fact that the Executive Branch could not unilaterally make any offer of assistance to North Vietnam, but that such aid would first have to have Congressional authorization and appropriation. The letter did not specifically pledge to seek any particular sum of money for this purpose. Rather, it merely indicated the general range within which we were considering providing postwar assistance. The letter also specifically noted that this estimate was subject to revision and detailed discussion between the two governments.

I trust the above information will be helpful to the work of your Committee.

Sincerely,

PHILIP C. HABIB.

The following are Committee questions which were not addressed during Under Secretary Habib's testimony. Chairman Montgomery asked the Department to respond to them and the replies are provided herewith.

Question 1. During a press conference on January 23, 1973, President Nixon stated that within sixty days from the signing of the Paris Agreement, there would be the fullest possible accounting for those Americans still missing in action. On what basis did the President make that statement?

Answer. President Nixon said all POW's would be released within 60 days. In a separate sentence he went on to say: "There will be the fullest possible accounting for all of those who are MIA." The latter was not tied to the 60-day period.

Question 2. In a news conference on January 24, 1973, Secretary Kissinger stated: "The return of American personnel and the accounting of missing in action is unconditional and will take place within the same time frame as the American withdrawal," (60 days). Did the Secretary have any special information or commitment upon which to base this erroneous information?

Answer. The key word in Secretary Kissinger's comment at that time was that accounting for the missing and release of prisoners both were "unconditional". There is no special information on this matter, as the question suggests. It is clear from the terms of the Paris Agreement that a full accounting for the missing might well take longer than the 60-day period. Article 10a of the Protocol to the Paris Agreement pertaining to captured personnel specifically provided for a Four-Power Joint Military Team to carry on this task beyond the period for release of prisoners.

Question 3. Was there a linkage in the Paris negotiations between American MIA's and postwar U.S. reconstruction aid? Was there any special relationship between the Joint Economic Commission and the Four Party Joint Military Team?

Answer. The Vietnamese have consistently made public statements linking their obligation to account for MIA's with the provision of American aid under the Paris Agreement. This linkage has no support whatsoever in the agreement or in its negotiating history.

There was no special relationship between the Joint Economic Commission and the Four Party Joint Military Team (FPJMT).

Question 4. We have heard that the Secretary of State considers the Paris Agreement "dead". Is this an official Departmental view? If the Paris Agreement is "dead", does this not relieve the Vietnamese of their responsibility under Article 8b to account for missing Americans?

Answer. By their military conquest of the South, the North Vietnamese violated the most basic provisions of the Paris Agreement. In view of the massive North Vietnamese violations of the Agreement, we consider that they have effectively repudiated it and we have no further obligation under it.

At the same time, under international law, the North Vietnamese cannot, by their violations, relieve themselves of their obligation under the Agreement to provide information on our MIA's. Nor can they avoid their obligations under the Geneva Conventions of 1949 and basic humanitarian standards of international law.

Question 5. What is your forecast on when meaningful talks might begin and when some of the families might expect to learn the fate of their missing men?

Answer. We are involved in an ongoing exchange with the Vietnamese. We have indicated that we are prepared to open discussions with them and that our primary concern in any such discussions will be an accounting for our missing men and return of the remains of our dead. Whether meaningful talks will develop depends entirely on the Vietnamese and whether they are willing to meet our concerns without insisting on unacceptable conditions.

[Reprint from the Department of State Bulletin]

DOCUMENTATION ON THE VIETNAM AGREEMENT

AGREEMENT CONCLUDED ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM

Following are texts of an address to the Nation made by President Nixon on television and radio on January 23, a news conference held at the White House on January 24 by Henry A. Kissinger, Assistant to the President for National Security Affairs, and the Agreement on Ending the War and Restoring Peace in Vietnam and related protocols released by the White House January 24.

ADDRESS BY PRESIDENT NIXON, JANUARY 23, 1973

Good evening. I have asked for this radio and television time tonight for the purpose of announcing that we today have concluded an agreement to end the war and bring peace with honor in Viet-Nam and in Southeast Asia.

The following statement is being issued at this moment in Washington and Hanoi:

"At 12:30 Paris time today, January 23, 1973, the Agreement on Ending the War and Restoring Peace in Vietnam was initialed by Dr. Henry Kissinger on behalf of the United States, and Special Advisor Le Duc Tho on behalf of the Democratic Republic of Vietnam.

"The agreement will be formally signed by the parties participating in the Paris Conference on Vietnam on January 27, 1973, at the International Conference Center in Paris.

"The cease-fire will take effect at 2400 Greenwich Mean Time, January 27, 1973. The United States and the Democratic Republic of Vietnam express the hope that this agreement will insure stable peace in Vietnam and contribute to the preservation of lasting peace in Indochina and Southeast Asia."

That concludes the formal statement.

Throughout the years of negotiations, we have insisted on peace with honor. In my addresses to the Nation from this room of January 25 and May 8, I set forth the goals that we considered essential for peace with honor.¹

In the settlement that has now been agreed to, all the conditions that I laid down then have been met. A cease-fire, internationally supervised, will begin at 7 p.m. this Saturday, January 27, Washington time. Within 60 days from this Saturday, all Americans held prisoners of war throughout Indochina will be released. There will be the fullest possible accounting for all of those who are missing in action.

During the same 60-day period, all American forces will be withdrawn from South Viet-Nam.

¹ For texts, see Bulletin of Feb. 14, 1972, p. 181, and May 29, 1972, p. 747.

The people of South Viet-Nam have been guaranteed the right to determine their own future without outside interference.

By joint agreement, the full text of the agreement and the protocols to carry it out will be issued tomorrow.

Throughout these negotiations we have been in the closest consultation with President Thieu and other representatives of the Republic of Viet-Nam. This settlement meets the goals and has the full support of President Thieu and the Government of the Republic of Viet-Nam, as well as that of our other allies who are affected.

The United States will continue to recognize the Government of the Republic of Viet-Nam as the sole legitimate government of South Viet-Nam.

We shall continue to aid South Viet-Nam within the terms of the agreement, and we shall support efforts by the people of South Viet-Nam to settle their problems peacefully among themselves.

We must recognize that ending the war is only the first step toward building the peace. All parties must now see to it that this is a peace that lasts, and also a peace that heals, and a peace that not only ends the war in Southeast Asia but contributes to the prospects of peace in the whole world.

This will mean that the terms of the agreement must be scrupulously adhered to. We shall do everything the agreement requires of us, and we shall expect the other parties to do everything it requires of them. We shall also expect other interested nations to help insure that the agreement is carried out and peace is maintained.

As this long and very difficult war ends, I would like to address a few special words to each of those who have been parties in the conflict.

First, to the people and Government of South Viet-Nam: By your courage, by your sacrifice, you have won the precious right to determine your own future, and you have developed the strength to defend that right. We look forward to working with you in the future, friends in peace as we have been allies in war.

To the leaders of North Viet-Nam: As we have ended the war through negotiations, let us now build a peace of reconciliation. For our part, we are prepared to make a major effort to help achieve that goal; but just as reciprocity was needed to end the war, so, too, will it be needed to build and strengthen the peace.

To the other major powers that have been involved, even indirectly: Now is the time for mutual restraint so that the peace we have achieved can last.

And finally, to all of you who are listening, the American people: Your steadfastness in supporting our insistence on peace with honor has made peace with honor possible. I know that you would not have wanted that peace jeopardized. With our secret negotiations at the sensitive stage they were in during this recent period, for me to have discussed publicly our efforts to secure peace would not only have violated our understanding with North Viet-Nam; it would have seriously harmed and possibly destroyed the chances for peace. Therefore, I know that you now can understand why during these past several weeks I have not made any public statements about those efforts.

The important thing was not to talk about peace, but to get peace and to get the right kind of peace. This we have done.

Now that we have achieved an honorable agreement, let us be proud that America did not settle for a peace that would have betrayed our allies, that would have abandoned our prisoners of war, or that would have ended the war for us but would have continued the war for the 50 million people of Indochina. Let us be proud of the 2½ million young Americans who served in Viet-Nam, who served with honor and distinction in one of the most selfless enterprises in the history of nations. And let us be proud of those who sacrificed, who gave their lives so that the people of South Viet-Nam might live in freedom and so that the world might live in peace.

In particular, I would like to say a word to some of the bravest people I have ever met—the wives, the children, the families, of our prisoners of war and the missing in action. When others called on us to settle on any terms, you had the courage to stand for the right kind of peace so that those who died and those who suffered would not have died and suffered in vain and so that where this generation knew war the next generation would know peace. Nothing means more to me at this moment than the fact that your long vigil is coming to an end.

Just yesterday, a great American who once occupied this office died. In his life President Johnson endured the vilification of those who sought to portray

him as a man of war. But there was nothing he cared about more deeply than achieving a lasting peace in the world.

I remember the last time I talked with him. It was just the day after New Year's. He spoke then of his concern with bringing peace, with making it the right kind of peace, and I was grateful that he once again expressed his support for my efforts to gain such a peace. No one would have welcomed this peace more than he.

And I know he would join me in asking for those who died and for those who live: Let us consecrate this moment by resolving together to make the peace we have achieved a peace that will last.

Thank you and good evening.

DR. KISSINGER'S NEWS CONFERENCE, JANUARY 24, 1973

Ladies and gentlemen: The President last evening presented the outlines of the agreement, and by common agreement between us and the North Vietnamese we have today released the texts. And I am here to explain, to go over briefly, what these texts contain and how we got there, what we have tried to achieve in recent months, and where we expect to go from here.

Let me begin by going through the agreement, which you have read. The agreement, as you know, is in nine chapters. The first affirms the independence, sovereignty, unity, and territorial integrity, as recognized by the 1954 Geneva agreements on Viet-Nam, agreements which established two zones divided by a military demarcation line.

Chapter II deals with the cease-fire. The cease-fire will go into effect at 7 o'clock, Washington time, on Saturday night. The principal provisions of chapter II deal with permitted acts during the cease-fire and with what the obligations of the various parties are with respect to the cease-fire.

Chapter II also deals with the withdrawal of American and all other foreign forces from Viet-Nam within a period of 60 days. And it specifies the forces that have to be withdrawn. These are, in effect, all military personnel and all civilian personnel dealing with combat operations. We are permitted to retain economic advisers, and civilian technicians serving in certain of the military branches.

Chapter II further deals with the provisions for resupply and for the introduction of outside forces. There is a flat prohibition against the introduction of any military force into South Viet-Nam from outside of South Viet-Nam, which is to say that whatever forces may be in South Viet-Nam from outside South Viet-Nam, specifically North Vietnamese forces, cannot receive reinforcements, replacements, or any other form of augmentation by any means whatsoever. With respect to military equipment, both sides are permitted to replace all existing military equipment on a one-to-one basis under international supervision and control.

There will be established, as I will explain when I discuss the protocols, for each side three legitimate points of entry through which all replacement equipment has to move. These legitimate points of entry will be under international supervision.

Release of Prisoners

Chapter III deals with the return of captured military personnel and foreign civilians, as well as with the question of civilian detainees within South Viet-Nam.

This, as you know, throughout the negotiations presented enormous difficulties for us. We insisted throughout that the question of American prisoners of war and of American civilians captured throughout Indochina should be separated from the issue of Vietnamese civilian personnel detained, partly because of the enormous difficulty of classifying the Vietnamese civilian personnel by categories of who was detained for reasons of the civil war and who was detained for criminal activities, and secondly, because it was foreseeable that negotiations about the release of civilian detainees would be complex and difficult and because we did not want to have the issue of American personnel mixed up with the issues of civilian personnel in South Viet-Nam.

This turned out to be one of the thorniest issues, that was settled at some point and kept reappearing throughout the negotiations. It was one of the difficulties we had during the December negotiations.

As you can see from the agreement, the return of American military personnel and captured civilians is separated in terms of obligation, and in terms of the time frame, from the return of Vietnamese civilian personnel.

The return of American personnel and the accounting of missing in action is unconditional and will take place within the same time frame as the American withdrawal.

The issue of Vietnamese civilian personnel will be negotiated between the two Vietnamese parties over a period of three months, and as the agreement says, they will do their utmost to resolve this question within the three-month period. So I repeat, the issue is separated, both in terms of obligation and in terms of the relevant time frame, from the return of American prisoners, which is unconditional.

We expect that American prisoners will be released at intervals of two weeks or 15 days in roughly equal installments. We have been told that no American prisoners are held in Cambodia. American prisoners held in Laos and North Viet-Nam will be returned to us in Hanoi. They will be received by American medical evacuation teams and flown on American airplanes from Hanoi to places of our own choice, probably Vientiane.

There will be international supervision of both this provision and of the provision for the missing in action. And all American prisoners will, of course, be released, within 60 days of the signing of the agreement. The signing will take place on January 27 in two installments, the significance of which I will explain to you when I have run through the provisions of the agreement and the associated protocols.

Self-Determination for South Viet-Nam

Chapter IV of the agreement deals with the right of the South Vietnamese people to self-determination. Its first provision contains a joint statement by the United States and North Viet-Nam in which those two countries jointly recognize the South Vietnamese people's right to self-determination, in which those two countries jointly affirm that the South Vietnamese people shall decide for themselves the political system that they shall choose and jointly affirm that no foreign country shall impose any political tendency on the South Vietnamese people.

The other principal provisions of the agreement are that in implementing the South Vietnamese people's right to self-determination, the two South Vietnamese parties will decide, will agree among each other, on free elections, for offices to be decided by the two parties, at a time to be decided by the two parties. These elections will be supervised and organized first by an institution which has the title of National Council for National Reconciliation and Concord, whose members will be equally appointed by the two sides, which will operate on the principle of unanimity, and which will come into being after negotiation between the two parties, who are obligated by this agreement to do their utmost to bring this institution into being within 90 days.

Leaving aside the technical jargon, the significance of this part of the agreement is that the United States has consistently maintained that we would not impose any political solution on the people of South Viet-Nam. The United States has consistently maintained that we would not impose a coalition government or a distinguished coalition government on the people of South Viet-Nam.

If you examine the provisions of this chapter, you will see, first, that the existing government in Saigon can remain in office; secondly, that the future of South Viet-Nam depends on agreement between the South Vietnamese parties, and not on an agreement that the United States has imposed on these parties; thirdly, that the nature of this political evolution, the timing of this political evolution, is left to the South Vietnamese parties, and that the organ that is created to see to it that the elections that are organized will be conducted properly is one in which each of the South Vietnamese parties has a veto.

The other significant provision of this agreement is the requirement that the South Vietnamese parties will bring about a reduction of their armed forces and that the forces being reduced will be demobilized.

The Issue of the Demilitarized Zone

The next chapter deals with the reunification of Viet-Nam and the relationship between North and South Viet-Nam. In the many negotiations that I have conducted over recent weeks, not the least arduous was the negotiation conducted with the ladies and gentlemen of the press, who constantly raised issues with respect to sovereignty, the existence of South Viet-Nam as a political entity, and other matters of this kind.

I will return to this issue at the end when I sum up the agreement, but it is obvious that there is no dispute in the agreement between the parties that there is an entity called South Viet-Nam and that the future unity of Viet-Nam, as it comes about, will be decided by negotiation between North and South Viet-Nam; that it will not be achieved by military force; indeed, that the use of military force with respect to bringing about unification, or any other form of coercion, is impermissible according to the terms of this agreement.

Secondly, there are specific provisions in this chapter with respect to the demilitarized zone (DMZ). There is a repetition of the agreement of 1954 which makes the demarcation line along the 17th parallel provisional, which means pending reunification. There is a specific provision that both North and South Viet-Nam shall respect the demilitarized zone on either side of the provisional military demarcation line, and there is another provision that indicates that among the subjects that can be negotiated will be modalities of civilian movement across the demarcation line, which makes it clear that military movement across the demilitarized zone is in all circumstances prohibited.

Now, this may be an appropriate point to explain what our position has been with respect to the DMZ. There has been a great deal of discussion about the issue of sovereignty and about the issue of legitimacy—which is to say, which government is in control of South Viet Nam—and finally, about why we laid such great stress on the issue of the demilitarized zone.

We had to place stress on the issue of the demilitarized zone because the provisions of the agreement with respect to infiltration, with respect to replacement, with respect to any of the military provisions, would have made no sense whatsoever if there was not some demarcation line that defined where South Viet-Nam began. If we had accepted the proposition that would have in effect eroded the demilitarized zone, then the provisions of the agreement with respect to restrictions about the introduction of men and materiel into South Viet-Nam would have been unilateral restrictions applying only to the United States and only to our allies. Therefore, if there was to be any meaning to the separation of military and political issues, if there was to be any permanence to the military provisions that had been negotiated, then it was essential that there was a definition of where the obligations of this agreement began. As you can see from the text of the agreement, the principles that we defended were essentially achieved.

Finally, there is a requirement that all foreign troops be withdrawn from Laos and Cambodia, and it is clearly understood that North Vietnamese troops are considered foreign with respect to Laos and Cambodia.

Now, as to the conflict within these countries which could not be formally settled in an agreement which is not signed by the parties of that conflict, let me make this statement, without elaborating it: It is our firm expectation that within a short period of time there will be a formal cease-fire in Laos which in turn will lead to a withdrawal of all foreign forces from Laos and, of course, to the end of the use of Laos as a corridor of infiltration.

Secondly, the situation in Cambodia, as those of you who have studied it will know, is somewhat more complex because there are several parties headquartered in different countries. Therefore, we can say about Cambodia that it is our expectation that a de facto cease-fire will come into being over a period of time relevant to the execution of this agreement.

Our side will take the appropriate measures to indicate that it will not attempt to change the situation by force. We have reason to believe that our position is clearly understood by all concerned parties, and I will not go beyond this in my statement.

Relationship of the U.S. to North Viet-Nam

Chapter VIII deals with the relationship between the United States and the Democratic Republic of Viet-Nam.

As I have said in my briefings on October 26 and on December 16 and as the President affirmed on many occasions, the last time in his speech last evening, the United States is seeking a peace that heals.² We have had many armistices in Indochina. We want a peace that will last.

Chapter VI deals with the international machinery, and we will discuss that when I talk about the associated protocols of the agreement.

² For Dr. Kissinger's news conferences of Oct. 26 and Dec. 16, 1972, see Bulletin of Nov. 13, 1972, p. 549, and Jan. 8, 1973, p. 33.

Laos and Cambodia

Chapter VII deals with Laos and Cambodia. Now, the problem of Laos and Cambodia has two parts. One part concerns those obligations which can be undertaken by the parties signing the agreement—that is to say, the three Vietnamese parties and the United States—those measures that they can take which affect the situation in Laos and Cambodia. A second part of the situation in Laos has to concern the nature of the civil conflict that is taking place within Laos and Cambodia and the solution of which, of course, must involve as well the two Laotian parties and the innumerable Cambodian factions.

Let me talk about the provisions of the agreement with respect to Laos and Cambodia and our firm expectations as to the future in Laos and Cambodia.

The provisions of the agreement with respect to Laos and Cambodia reaffirm, as an obligation to all the parties, the provisions of the 1954 agreement on Cambodia and of the 1962 agreement on Laos, which affirm the neutrality and right to self-determination of those two countries. They are therefore consistent with our basic position with respect also to South Viet-Nam.

In terms of the immediate conflict, the provisions of the agreement specifically prohibit the use of Laos and Cambodia for military and any other operations against any of the signatories of the Paris agreement or against any other country. In other words, there is a flat prohibition against the use of base areas in Laos and Cambodia.

There is a flat prohibition against the use of Laos and Cambodia for infiltration into Viet-Nam or, for that matter, into any other country.

And therefore it is our firm intention in our relationship to the Democratic Republic of Viet-Nam to move from hostility to normalization, and from normalization to conciliation and cooperation. And we believe that under conditions of peace we can contribute throughout Indochina to a realization of the humane aspirations of all the people of Indochina. And we will, in that spirit, perform our traditional role of helping people realize these aspirations in peace.

Chapter IX of the agreement is the usual implementing provision.

So much for the agreement.

Provisions of Protocols to the Agreement

Now let me say a word about the protocols. There are four protocols or implementing instruments to the agreement: on the return of American prisoners, on the implementation and institution of an International Control Commission, on the regulations with respect to the cease-fire and the implementation and institution of a Joint Military Commission among the concerned parties, and a protocol about the deactivation and removal of mines.

I have given you the relevant provisions of the protocol concerning the return of prisoners. They will be returned at periodic intervals in Hanoi to American authorities and not to American private groups. They will be picked up by American airplanes, except for prisoners held in the southern part of South Viet-Nam, which will be released at designated points in the South, again to American authorities.

We will receive on Saturday, the day of the signing of the agreement, a list of all American prisoners held throughout Indochina. And both parties—that is to say, all parties—have an obligation to assist each other in obtaining information about the prisoners, missing in action, and about the location of graves of American personnel throughout Indochina.

The International Commission has the right to visit the last place of detention of the prisoners, as well as the place from which they are released.

Now to the International Control Commission. You will remember that one of the reasons for the impasse in December was the difficulty of agreeing with the North Vietnamese about the size of the International Commission, its function, or the location of its teams.

On this occasion, there is no point in rehashing all the differences. It is, however, useful to point out that at that time the proposal of the North Vietnamese was that the International Control Commission have a membership of 250, no organic logistics or communication, dependent entirely for its authority to move on the party it was supposed to be investigating; and over half of its personnel were supposed to be located in Saigon, which is not the place where most of the infiltration that we were concerned with was likely to take place.

We have distributed to you an outline of the basic structure of this Commission.^{*} Briefly stated, its total number is 1,160, drawn from Canada, Hungary,

^{*} Not printed here.

Indonesia, and Poland. It has a headquarters in Saigon. It has seven regional teams, 26 teams based in localities throughout Viet-Nam which were chosen either because forces were in contact there or because we estimated that these were the areas where the violations of the cease-fire were most probable.

There are 12 teams at border-crossing points. There are seven teams that are set aside for points of entry, which have yet to be chosen, for the replacement of military equipment. That is for article 7 of the agreement. There will be three on each side, and there will be no legitimate point of entry into South Viet-Nam other than those three points. The other border and coastal teams are there simply to make certain that no other entry occurs, and any other entry is by definition illegal. There has to be no other demonstration except the fact that it occurred.

This leaves one team free for use, in particular, at the discretion of the Commission. And of course the seven teams that are being used for the return of the prisoners can be used at the discretion of the Commission after the prisoners are returned.

There is one reinforced team located at the demilitarized zone, and its responsibility extends along the entire demilitarized zone. It is in fact a team and a half. It is 50 percent larger than a normal border team and it represents one of the many compromises that were made, between our insistence on two teams and their insistence on one team. By a brilliant stroke, we settled on a team and a half. [Laughter.]

With respect to the operation of the International Commission, it is supposed to operate on the principle of unanimity, which is to say that its reports, if they are Commission reports, have to have the approval of all four members. However, each member is permitted to submit his own opinion, so that as a practical matter any member of the Commission can make a finding of a violation and submit a report, in the first instance to the parties.

The International Commission will report for the time being to the four parties to the agreement. An international conference will take place, we expect, at the foreign ministers level within a month of signing the agreement.

That international conference will establish a relationship between the International Commission and itself, or any other international body that is mutually agreed upon, so that the International Commission is not only reporting to the parties that it is investigating. But for the time being, until the international conference has met, there was no other practical group to which the International Commission could report.

In addition to this international group, there are two other institutions that are supposed to supervise the cease-fire. There is, first of all, an institution called the Four-Party Joint Military Commission, which is composed of ourselves and the three Vietnamese parties, which is located in the same place as the International Commission, charged with roughly the same functions, but as a practical matter, it is supposed to conduct the preliminary investigations, its disagreements are automatically referred to the International Commission, and moreover, any party can request the International Commission to conduct an investigation regardless of what the Four-Party Commission does and regardless of whether the Four-Party Commission has completed its investigation or not.

After the United States has completed its withdrawal, the Four-Party Military Commission will be transformed into a Two-Party Commission composed of the two South Vietnamese parties. The total number of supervisory personnel, therefore, will be in the neighborhood of 4,500 during the period that the Four-Party Commission is in existence, and in the neighborhood of about 3,000 after the Four-Party Commission ceases operating and the Two-Party Commission comes into being.

Finally, there is a protocol concerning the removal and deactivation of mines, which is self-explanatory and simply explains—discusses the relationship between our efforts and the efforts of the DRV concerning the removal and deactivation of mines, which is one of the obligations we have undertaken in the agreement.

Procedure for Signing Documents

Now let me point out one other problem. On Saturday, January 27, the Secretary of State, on behalf of the United States, will sign the agreement bringing the cease-fire and all the other provisions of the agreement and the protocols into force. He will sign in the morning a document involving four parties, and in the afternoon a document between us and the Democratic Republic of

Viet-Nam. These documents are identical, except that the preamble differs in both cases.

The reason for this somewhat convoluted procedure is that while the agreement provides that the two South Vietnamese parties should settle their disputes in an atmosphere of national reconciliation and concord, I think it is safe to say that they have not yet quite reached that point, indeed, that they have not yet been prepared to recognize each other's existence.

This being the case, it was necessary to devise one document in which neither of the South Vietnamese parties was mentioned by name, and therefore no other party could be mentioned by name, on the principle of equality. So the four-party document, the document that will have four signatures, can be read with great care and you will not know until you get to the signature page whom exactly it applies to. It refers only to the parties participating in the Paris Conference, which are, of course, well known to the parties participating in the Paris Conference. [Laughter.]

It will be signed on two separate pages. The United States and the GVN are signing on one page, and the Democratic Republic of Viet-Nam and its ally are signing on a separate page. And this procedure has aged us all by several years. [Laughter.]

Then there is another document, which will be signed by the Secretary of State and the Foreign Minister of the Democratic Republic of Viet-Nam in the afternoon. That document, in its operative provisions, is word for word the same as the document which will be signed in the morning and which contains the obligations to which the two South Vietnamese parties are obligated.

It differs from that document only in the preamble and in its concluding paragraph. In the preamble it says the United States, with the concurrence of the Government of the Republic of Viet-Nam, and the DRV, with the concurrence of the Provisional Revolutionary Government, and the rest is the same, and then the concluding paragraph has the same adaptation. That document, of course, is not signed by either Saigon or its opponent, and therefore their obligations are derived from the four-party document.

I do not want to take any time in going into the abstruse legalisms. I simply wanted to explain to you why there were two different signature ceremonies and why, when we handed out the text of the agreement, we appended to the document which contains the legal obligations which apply to everybody—namely, the four parties—why we appended another section that contained a different preamble and a different implementing paragraph which is going to be signed by the Secretary of State and the Foreign Minister of the Democratic Republic of Viet-Nam.

This will be true with respect to the agreement and three of the protocols. The fourth protocol, regarding the removal of mines, applies only to the United States and the Democratic Republic of Viet-Nam, and therefore we are in the happy position of having to sign only one document.

Negotiating Process and Achievements

Now then, let me summarize for you how we got to this point and some of the aspects of the agreement that we consider significant, and then I will answer your questions.

As you know, when I met with this group on December 16, we had to report that the negotiations in Paris seemed to have reached a stalemate. We had not agreed at that time, although we didn't say so, on the—we could not find a formula to take into account the conflicting views with respect to signing. There were disagreements with respect to the DMZ and with the associated aspects of what identity South Viet-Nam was to have in the agreement.

There was a total deadlock with respect to the protocols, which I summed up in the December 16 press conference. The North Vietnamese approach to international control and ours were so totally at variance that it seemed impossible at that point to come to any satisfactory conclusion. And there began to be even some concern that the separation which we thought we had achieved in October between the release of our prisoners and the question of civilian prisoners in South Viet-Nam was breaking down.

When we reassembled on January 8, we did not do so in the most cordial atmosphere that I remember. However, by the morning of January 9 it became apparent that both sides were determined to make a serious effort to break the deadlock in negotiations. And we adopted a mode of procedure by which issues in the agreement and issues of principle with respect to the protocols were discussed at meetings between Special Advisor Le Duc Tho and myself

while concurrently an American team headed by Ambassador Sullivan [William H. Sullivan, Deputy Assistant Secretary of State for East Asian and Pacific Affairs] and a Vietnamese team headed by Vice Minister Thach [Nguyen Co Thach, Vice Minister for Foreign Affairs] would work on the implementation of the principles as they applied to the protocols.

For example, the Special Advisor and I might agree on the principle of border control posts and their number, but then the problem of how to locate them, according to what criteria, and with what mode of operation presented enormous difficulties.

Let me on this occasion also point out that these negotiations required the closest cooperation throughout our government, between the White House and the State Department, between all the elements of our team, and that therefore the usual speculation of who did what to whom is really extraordinarily misplaced.

Without a cooperative effort by everybody, we could not have achieved what we have presented last night and this morning.

The Special Advisor and I then spent the week first on working out the unresolved issues in the agreement and then the unresolved issues with respect to the protocols and, finally, the surrounding circumstances of schedules and procedures.

Ambassador Sullivan remained behind to draft the implementing provisions of the agreements that had been achieved during the week. The Special Advisor and I remained in close contact.

So by the time we met again yesterday, the issues that remained were very few, indeed, were settled relatively rapidly. And I may on this occasion also point out that while the North Vietnamese are the most difficult people to negotiate with that I have ever encountered when they do not want to settle, they are also the most effective that I have dealt with when they finally decide to settle—so that we have gone through peaks and valleys in these negotiations of extraordinary intensity.

Now then, let me sum up where this agreement has left us—first with respect to what we said we would try to achieve, then with respect to some of its significance, and finally, with respect to the future.

First, when I met this group on October 26 and delivered myself of some epigrammatic phrases, we obviously did not want to give a complete checklist and we did not want to release the agreement as it then stood, because it did not seem to us desirable to provide a checklist against which both sides would then have to measure success and failure in terms of their prestige.

At that time, too, we did not say that it had always been foreseen that there would be another three or four days of negotiation after this tentative agreement had been reached. The reason why we asked for another negotiation was because it seemed to us at that point that for a variety of reasons, which I explained then and again on December 16, those issues could not be settled within the time frame that the North Vietnamese expected.

It is now a matter of history, and it is therefore not essential to go into a debate of on what we based this judgment. But that was the reason why the agreement was not signed on October 31, and not any of the speculations that have been so much in print and on television.

Now, what did we say on October 26 we wanted to achieve? We said, first of all, that we wanted to make sure that the control machinery would be in place at the time of the cease-fire. We did this because we had information that there were plans by the other side to mount a major offensive to coincide with the signing of the cease-fire agreement.

This objective has been achieved by the fact that the protocols will be signed on the same day as the agreement, by the fact that the International Control Commission and the Four-Party Military Commission will meet within 24 hours of the agreement going into effect, or no later than Monday morning, Saigon time, that the regional teams of the International Control Commission will be in place 48 hours thereafter, and that all other teams will be in place within 15 and a maximum of 30 days after that.

Second, we said that we wanted to compress the time interval between the ceasefires we expected in Laos and Cambodia and the cease-fire in Viet-Nam.

For reasons which I have explained to you, we cannot be as specific about the ceasefires in Laos and Cambodia as we can about the agreements that are being signed on Saturday, but we can say with confidence that the formal cease-fire in Laos will go into effect in a considerably shorter period of time than was en-

visaged in October, and since the cease-fire in Cambodia depends to some extent on developments in Laos, we expect the same to be true there.

We said that certain linguistic ambiguities should be removed. The linguistic ambiguities were produced by the somewhat extraordinary negotiating procedure whereby a change in the English text did not always produce a correlative change in the Vietnamese text. All the linguistic ambiguities to which we referred in October have in fact been removed. At that time I mentioned only one, and therefore I am free to recall it.

The Vietnamese language text, however, permitted an interpretation of the imposition of a coalition government on the people of South Viet-Nam. I said then that the National Council of Reconciliation was not a coalition government, nor was it conceived as a coalition government.

The Vietnamese language text, however, permitted an interpretation of the words "administrative structure" as applied to the National Council of Reconciliation which would have lent itself to the interpretation that it came close or was identical with a coalition government.

You will find that in the text of this agreement the words "administrative structure" no longer exist and therefore this particular—shall we say—ambiguity has been removed.

I pointed out in October that we had to find a procedure for signing which would be acceptable to all the parties for whom obligations were involved. This has been achieved.

I pointed out on October 26 that we would seek greater precision with respect to certain obligations particularly, without spelling them out, as they applied to the demilitarized zone and to the obligations with respect to Laos and Cambodia. That, too, has been achieved.

And I pointed out in December that we were looking for some means, some expression, which would make clear that the two parts of Viet-Nam would live in peace with each other and that neither side would impose its solution on the other by force.

This is now explicitly provided, and we have achieved formulations in which in a number of the paragraphs, such as article 14, 18(e), and 20, there are specific references to the sovereignty of South Viet-Nam.

There are specific references, moreover, to the same thing in article 6 and article 11 of the ICCS [International Commission of Control and Supervision] protocol. There are specific references to the right of the South Vietnamese people to self-determination.

And therefore we believe that we have achieved the substantial adaptations that we asked for on October 26. We did not increase our demands after October 26, and we substantially achieved the clarifications which we sought.

Now then, it is obvious that a war that has lasted for 10 years will have many elements that cannot be completely satisfactory to all the parties concerned. And in the two periods where the North Vietnamese were working with dedication and seriousness on a conclusion, the period in October and the period after we resumed talks on January 8, it was always clear that a lasting peace could come about only if neither side sought to achieve everything that it had wanted; indeed, that stability depended on the relative satisfaction and therefore on the relative dissatisfaction of all of the parties concerned. And therefore it is also clear that whether this agreement brings a lasting peace or not depends not only on its provisions but also on the spirit in which it is implemented.

It will be our challenge in the future to move the controversies that could not be stilled by any one document from the level of military conflict to the level of positive human aspirations, and to absorb the enormous talents and dedication of the people of Indochina in tasks of construction, rather than in tasks of destruction.

We will make a major effort to move to create a framework where we hope in a short time the animosities and the hatred and the suffering of this period will be seen as aspects of the past and where the debates concern differences of opinion as to how to achieve positive goals.

Of course the hatreds will not rapidly disappear, and of course people who have fought for 25 years will not easily give up their objectives, but also people who have suffered for 25 years may at last come to know that they can achieve their real satisfaction by other and less brutal means.

The President said yesterday that we have to remain vigilant, and so we shall, but we shall also dedicate ourselves to positive efforts. And as for us at home, it should be clear by now that no one in this war has had a monopoly of anguish

and that no one in these debates has had a monopoly of moral insight. And now that at last we have achieved an agreement in which the United States did not prescribe the political future to its allies, an agreement which should preserve the dignity and the self-respect of all of the parties, together with healing the wounds in Indochina we can begin to heal the wounds in America.

I will be glad to answer any questions.

Question. Dr. Kissinger, what, if any, supervision do you envisage over the Ho Chi Minh Trail by an international agency?

Dr. KISSINGER. We expect that the International Control Commission that exists in Laos will be reinstituted. We have also provided for the establishment of border teams, as you can see from the maps, at all the terminal points of the Ho Chi Minh Trail into South Viet-Nam. And therefore, we believe that there will be international supervision of the provisions, both within Laos and within South Viet-Nam.

Marvin [Marvin Kalb, CBS News].

Question. Dr. Kissinger, one of the major problems has been the continued presence of North Vietnamese troops in the South. Could you tell us, first, so far as you know, how many of these troops are there in the South now, and do you have any understanding or assurance that these troops will be withdrawn?

Dr. KISSINGER. Our estimate of the number of North Vietnamese troops in the South is approximately 145,000. Now, I want to say a number of things with respect to this.

First, nothing in the agreement establishes the right of North Vietnamese troops to be in the South.

Secondly, the North Vietnamese have never claimed that they have a right to have troops in the South, and while opinions may differ about the exact accuracy of that statement, from a legal point of view it is important because it maintains the distinction that we, too, maintain.

Thirdly, if this agreement is implemented, the North Vietnamese troops in the South should, over a period of time, be subject to considerable reduction. First, there is a flat prohibition against the introduction of any outside forces for any reason whatsoever, so that the normal attrition of personnel cannot be made up by the reinfiltration of outside forces. I am talking now about the provisions of the agreement. Secondly, there is a flat prohibition against the presence of foreign forces in Laos and Cambodia and therefore a flat prohibition against the use of the normal infiltration corridors. Thirdly, as the agreement makes clear, military movement of any kind across the demilitarized zone is prohibited, both in the clause requiring respect for the demilitarized zone, which by definition excludes military personnel, and second, in the clause that says only modalities of civilian movement can be discussed, not of any other movement between North and South Viet-Nam. Fourth, there is a provision requiring the reduction and demobilization of forces on both sides, the major part of which on the South Vietnamese (Communist) side is believed, by all knowledgeable observers, to have arrived from outside of South Viet-Nam.

Therefore it is our judgment that there is no way that North Viet-Nam can live up to that agreement without there being a reduction of the North Vietnamese forces in South Viet-Nam, without this being explicitly stated.

Of course, it is not inconceivable that the agreement will not in all respects be lived up to. In that case, adding another clause that will not be lived up to, specifically requiring it, would not change the situation.

It is our judgment and our expectation—it is our expectation that the agreement will be lived up to, and therefore we believe that the problem of these forces will be taken care of by the evolution of events in South Viet-Nam.

Peter [Peter Lisagor, Chicago Daily News].

Question. Dr. Kissinger, can I try to get a clarification of just that point? Several times, I think, you have said it is understood that North Vietnamese troops in Laos and Cambodia are considered foreign troops.

Dr. KISSINGER. That is right.

Question. Are they so considered?

Dr. KISSINGER. I said it once, Peter.

Question. You said it in answer to Marvin's question, but is it so considered in South Viet-Nam? Is North Viet-Nam a foreign entity in South Viet-Nam according to this agreement?

Dr. KISSINGER. This is one of the points on which the bitterest feeling rages and with which it is best not to deal in a formal and legalistic manner.

As I have pointed out, in this agreement there are repeated references to the identity of South Viet-Nam, to the fact that the South Vietnamese people's right of self-determination is recognized both by the DRV and by the United States, to the fact that North and South Viet-Nam shall settle their disputes peacefully and through negotiation, and other provisions of a similar kind.

Therefore it is clear there is no legal way by which North Viet-Nam can use military force against South Viet-Nam.

Now, whether that is due to the fact that there are two zones temporarily divided by a provisional demarcation line or because North Viet-Nam is a foreign country with relation to South Viet-Nam—that is an issue which we have avoided making explicit in the agreement and in which ambiguity has its merits. From the point of view of the international position and from the point of view of the obligations of the agreement, there is no legal way by which North Viet-Nam can use military force vis-a-vis South Viet-Nam to achieve its objectives.

Question. Dr. Kissinger, on that subject, by what means was the United States able to convince President Thieu to accept the presence of North Vietnamese troops in South Viet-Nam?

Dr. KISSINGER. First of all, it is not easy to achieve through negotiations what has not been achieved on the battlefield, and if you look at the settlements that have been made in the postwar period, the lines of demarcation have almost always followed the lines of actual control.

Secondly, we have taken the position throughout that the agreement cannot be analyzed in terms of any one of its provisions, but it has to be seen in its totality and in terms of the evolution that it starts.

Thirdly, we have not asked President Thieu, nor has he accepted, the presence of North Vietnamese troops in South Viet-Nam as a legal right, nor do we accept that as a legal right.

We have, since October 1970, proposed a cease-fire-in-place. A cease-fire-in-place always has to be between the forces that exist. The alternative of continued war also would have maintained the forces in the country.

Under these conditions, they are cut off from the possibility of renewed infiltration. They are prevented from undertaking military action. Their resupply is severely restricted.

And President Thieu, after examining the totality of the agreement, came to the conclusion that it achieved the essential objectives of South Viet-Nam, of permitting his people to bring about self-determination and of not posing a security risk that he could not handle with the forces that we have equipped and trained.

Mr. Horner [Garnett D. Horner, Washington Star-News].

Question. Because of a news report from Paris this morning that actually there were some 15 or 20 protocols, of which only four are being made public, were there any secret protocols agreed to?

Dr. KISSINGER. The only protocols that exist are the protocols that have been made public.

Question. What about understandings?

Dr. KISSINGER. There are, with respect to certain phrases, read into the record certain statements as to what they mean, but these have been explained in these briefings and made clear.

There are no secret understandings.

Question. Dr. Kissinger, it has been widely speculated that the 12-day saturation bombing of the North was the key to achieving the agreement that you found acceptable. Was it, and if not, what was?

Dr. KISSINGER. I was asked in October whether the bombing or mining of May 8 brought about the breakthrough in October, and I said then that I did not want to speculate on North Vietnamese motives. I have too much trouble analyzing our own.

I will give the same answer to your question, but I will say that there was a deadlock which was described in the middle of December, and there was a rapid movement when negotiations resumed on the technical level on January 3 (January 2) and on the substantive level on January 8. These facts have to be analyzed by each person for himself.

I want to make one point with respect to the question about understandings. It is obvious that when I speak with some confidence about certain developments that happen with respect to Laos and other places, that this must be based on exchanges that have taken place, but for obvious reasons I cannot go further into them.

The formal obligations of the parties have all been revealed, and there are no secret formal obligations.

Question. Dr. Kissinger, the dollar amount put on the amount to which the United States is committed in rebuilding—this construction you referred to in North Viet-Nam or reparations or whatever it is to be—is there any dollar amount suggested?

Dr. KISSINGER. We will discuss the issue of economic reconstruction of all of Indochina, including North Viet-Nam, only after the signature of the agreements and after the implementation is well advanced. And the definition of any particular sum will have to await the discussions which will take place after the agreements are in force.

Question. Dr. Kissinger, is there any understanding with the Soviet Union or with Communist China that they will take part in an international conference or will help toward the preservation of this framework of the agreement?

Dr. KISSINGER. Formal invitations to the international conference have not yet been extended. But we expect both the Soviet Union and the People's Republic of China to participate in the international conference which will take place within 30 days of the signature of the agreement.

We have reason to believe that both of these countries will participate in this conference.

Now, with respect to their willingness to help this agreement become viable, it is, of course, clear that peace in Indochina requires the self-restraint of all of the major countries and especially of those countries which on all sides have supplied the wherewithal for this conflict.

We, on our part, are prepared to exercise such restraint; we believe that the other countries, the Soviet Union and the People's Republic of China, can make a very major contribution to peace in Indochina by exercising similar restraint.

Question. If a peace treaty is violated and if the ICC proves ineffective, will the United States ever again send troops into Viet-Nam?

Dr. KISSINGER. I don't want to speculate on hypothetical situations that we don't expect to arise.

Question. Dr. Kissinger, what agreement or understanding is there on the role that will be played by the so-called neutralist or third-force groups in Viet-Nam in the National Council of Reconciliation?

Dr. KISSINGER. We have taken the position throughout that the future political evolution of South Viet-Nam should be left, to the greatest extent possible, to the South Vietnamese themselves and should not be predetermined by the United States.

Therefore, there is no understanding in any detail on the role of any particular force in South Viet-Nam. The United States has always taken the view that it favored free elections, but on the whole, the essence of this agreement is to leave the political evolution of South Viet-Nam to negotiation among the various South Vietnamese parties or factions.

Question. Dr. Kissinger, about a year ago, President Nixon outlined a peace proposal which included a provision for President Thieu to resign prior to elections. Is there any similar provision in this agreement?

Dr. KISSINGER. That proposal was in a somewhat different context. In any event, there is no such provision in this agreement and this, again, is a matter that will have to be decided by the Vietnamese parties within the context of whatever negotiation they have, but there is no requirement of any kind like this in the agreement.

Question. Dr. Kissinger, when do you expect the first American planes to arrive in Hanoi to pick up the prisoners?

Dr. KISSINGER. Our expectation is that the withdrawals, as well as the release of prisoners, will take place in roughly equal increments of 15 days over the 60-day period, so within 15 days of January 27. That is the outside time. It could be faster.

Question. I wanted to know the earliest time.

Dr. KISSINGER. I can't give any earlier time than within 15 days.

Question. Dr. Kissinger, you have addressed yourself to this general area before, but the question keeps coming up. Would you just review for us briefly how you feel that the agreement that you have reached differs from one that could have been reached, say, four years ago?

Dr. KISSINGER. Four years ago the North Vietnamese totally refused to separate political and military issues. Four years ago the North Vietnamese

insisted that as a condition to negotiations the existing governmental structure in South Viet-Nam would have to be disbanded, and only after this governmental structure had been disbanded and a different one had been installed would they even discuss, much less implement, any of the other provisions of the agreement.

Therefore, until October 8 of this year, all of the various schemes that were constantly being discussed foundered on the one root factor of the situation—that the North Vietnamese, until October 8 of this year, demanded that a political victory be handed to them as a precondition for a discussion of all military questions. But in that case, all military questions would have become totally irrelevant because there was no longer the political structure to which they could apply.

It was not until October 8 this year that the North Vietnamese ever agreed to separate these two aspects of the problem, and as soon as this was done, we moved rapidly.

Then, there was the second phase, which I have described, which included the changes that were made between October and January, which produced this agreement.

Question. Dr. Kissinger, earlier you said that as of December 16 there were various disagreements which you then listed, and the first one was the question of the demilitarized zone and associated aspects over what identity South Viet-Nam should have under the agreement. Can you elaborate on this, and most particularly, can you elaborate on it from the standpoint of whether you are referring here to President Thieu's objections?

Dr. KISSINGER. I have made clear what exactly was involved. We have here several separate issues. One, is there such a thing as a South Viet-Nam, even temporarily, until unification? Secondly, who is the legitimate ruler of South Viet-Nam? This is what the civil war has been all about. Thirdly, what is the demarcation line that separates North Viet-Nam from South Viet-Nam?

Now, we believe that the agreement defines adequately the demarcation line. It defines adequately what the identity is to which we refer. It leaves open to negotiation among the parties the political evolution of South Viet-Nam and therefore the definition of what ultimately will be considered by all South Vietnamese the legitimate ruler.

The President made clear yesterday that as far as the United States is concerned, we recognize President Thieu. This is a situation that has existed in other countries. And these were the three principal issues involved, of which two have international significance and were settled within the agreement, and the third has significance in terms of the political evolution of South Viet-Nam, and that has been left to the self-determination of the South Vietnamese people.

As to the question of President Thieu's objections, comments, and so forth, we said on October 26 that obviously in a war fought in South Viet-Nam, in a war that has had hundreds of thousands of casualties of South Vietnamese, enormous devastation within South Viet-Nam, it stands to reason that the views of our allies will have to be considered. There is nothing wrong or immoral for them to have such views.

Secondly, their perception of the risks has to be different from our perception of the risks. We are 12,000 miles away. If we make a mistake in our assessment of the situation, it will be painful. If they make a mistake in the assessment of the situation, it can be fatal. And therefore, they have had a somewhat less flexible attitude. Where we in some respects have at some points been content with more ambiguous formulations, they were not.

Nevertheless, it is also obvious to any reader of the Saigon press and of their official communications that we did not accept all of their comments and that we carried out precisely what the President had said and what was said at the various press conferences in which I presented the U.S. Government view; namely, that we would make the final determination as to when the American participation in the war should end.

Those parts of their comments that we thought were reasonable we made our own; those that we did not, we did not. And once we had achieved an agreement with the North Vietnamese that we considered fair and just and honorable, we presented it with great energy and conviction in Saigon.

Question. That is what I am asking you, Doctor. You say you made some of his points your points. What did he get in January that he didn't have in October?

Dr. KISSINGER. I do not want to discuss what he got. I pointed out the list of objectives we set ourselves in October and what was achieved. I pointed out the changes that were achieved between October and January. We believe them to be substantial, and I do not want to make a checklist of saying which originated in Saigon or which originated in Washington.

Question. Dr. Kissinger, did you personally feel strengthened in the negotiations as a result of the saturation bombing?

Dr. KISSINGER. The term "saturation bombing" has certain connotations. We carried out what was considered to be necessary at the time in order to make clear that the United States could not stand for an indefinite delay in the negotiations.

My role in the negotiations was to present the American point of view. I can only say that we resumed the negotiations on January 8 and the breakthrough occurred on January 9, and I will let those facts speak for themselves.

Question. Dr. Kissinger, what is now the extent and the nature of the American commitment to South Viet-Nam?

Dr. KISSINGER. The United States, as the President said, will continue economic aid to South Viet-Nam. It will continue that military aid which is permitted by the agreement. The United States is prepared to gear that military aid to the actions of other countries and not to treat it as an end in itself.

And the United States expects all countries to live up to the provisions of the agreement.

Question. Dr. Kissinger, you say, "The two South Vietnamese parties shall be permitted to make periodic replacements of armaments, munitions and war materiel which have been destroyed." Why do we have to put any more materiel in their? Why should they be in there, and will these materiel come from the United States or what countries?

Dr. KISSINGER. Let's separate two things: what is permitted by the agreement and what we shall do. What is permitted by the agreement is that military equipment that, as you read, is destroyed, worn out, used up, or damaged can be replaced.

The reason for that provision is that if for any reason the war should start at any level, it would be an unfair restriction on our South Vietnamese allies to prohibit them from replacing their weapons if their enemies are able to do so.

The degree, therefore, to which these weapons have to be replaced will depend on the degree to which there is military activity. If there is no military activity in South Viet-Nam, then the number of weapons that are destroyed, damaged, or worn out will of course be substantially less than in other circumstances.

Secondly, what will be the U.S. position? This depends on the overall situation. If there is no military activity, if other countries do not introduce massive military equipment into Viet-Nam, we do not consider it an end in itself to give military aid. But we believe that it would be unfair and wrong for one country to be armed by its allies while the other one has no right to do so. This is what will govern our actions.

Question. Dr. Kissinger, what is the plan for the rather sizable U.S. military force offshore in warships off South Viet-Nam and also B-52 bases in Thailand? Will these forces be reduced, and is there an understanding with the North Vietnamese that you have not mentioned to us here that would reduce those forces?

Dr. KISSINGER. There is no restriction on American military forces that is not mentioned in the agreement. One would expect, as time goes on, that the deployment of our naval forces will take account of the new situation.

As you know, we have kept many of our forces on station for longer than the normal period of time, and we have had more carriers in the area than before, but this is not required by the agreement and this is simply a projection of what might happen.

The same is true with respect to Thailand. There are no restrictions on our forces in Thailand. It has always been part of the Nixon doctrine that the deployment of our forces would be related to the degree of the danger and has not an abstract quality of its own.

So that as a general rule one can say that in the initial phases of the agreement, before one knows how it will be implemented, the deployment will be more geared to the war situation, and as the agreement is being implemented the conditions of peace will have a major impact on it. But this is simply a projection of our normal policy and is not an outgrowth required by the agreement.

The press: Thank you, Dr. Kissinger.

OPERATION HOMECOMING—FULL DETAILS OF PW/MIA PROGRAM OUTLINED (Commander's Digest, March 1, 1973)

The term "Homecoming" is the unclassified nickname for repatriation plans. Each of the Services has its own "Homecoming" plan. However, all are based on Defense Department policies on treatment, care, and assistance planned for the returned men.

Separate Service plans were required to accommodate the use of Service facilities and personnel and to task subordinate commands. One criterion that is important to each man's readjustment is that he be returned to a normal and familiar environment. For the returned Serviceman, that means, in part, a return to his branch of Service.

The mission of "Operation Homecoming" is to receive returned men and insure that they will get the very best treatment possible—sensitive, individualized processing and care. The ultimate goal is to help the man confidently rejoin U.S. society, his family and his chosen career as quickly and as easily as possible—to resume a normal healthy and productive life.

MEDICAL ATTENTION FOR ALL

"Homecoming" is founded on the basic premise that all returning men would require medical attention, some much more than others. Certainly, all would require rest and time to readjust. Therefore, plans required that all returning men be placed immediately under medical auspices for complete medical check-ups and treatment as necessary.

Three men released in September 1972 appeared to be in normal good health. However, experience in previous wars, as well as in this conflict, provided that appearance is no criterion for determining whether in fact an individual requires medical treatment. Only certain fundamental checks can confirm that a man is not suffering from some latent medical problem or disease. Experience with other men returning from captivity—particularly from Southeast Asia—clearly supports the necessity for immediate medical examinations.

In the case of the September returnees, medical examinations carried out indicated they were apparently in good health. However, this in no way alters the basic necessity for precautionary medical examinations immediately upon release.

GIVE, RECEIVE INFORMATION

In addition to the primary concern with the medical condition of the man, there are other requirements that bear on his welfare and the welfare of other men missing or captured and their families. There is an urgent requirement to debrief these men for the information they may have on the status of others not returned.

Based upon past experience, two primary desires of returned men are for an immediate physical check-up and an immediate opportunity to tell debriefers what they know about those remaining in captivity or about those missing or deceased.

Returnees also want to know about their families, personal affairs and military future.

The sequence of "Homecoming" processing as it is planned is as follows:

DEFENSE COMMAND ELEMENT

When it was announced that a Southeast Asia cease-fire agreement had been reached and would be signed by representative officials on January 27, a Defense Department command element—Homecoming Headquarters—was activated in anticipation of forthcoming prisoner of war releases. Officials from the four Services and all Defense Department agencies with responsibilities for "Homecoming" implementation operate the command element around the clock.

Each of the Services and other appropriate commands have similar elements. All installations that have responsibilities for receiving and processing the men have been alerted. The network of command centers provides the necessary coordination and direction for all activities that are associated with "Homecoming."

REPATRIATION POINTS

The repatriation point for most Americans being released is Hanoi. For prisoners of war held in the southern part of South Vietnam, repatriation sites in the South were designated.

The men are being met in Hanoi and at points designated in the South by pre-selected and pre-briefed reception teams. They are given an immediate medical check to determine if their individual conditions permit air evacuation to the Joint Homecoming Reception Center. If their medical conditions require immediate medical treatment, they are taken to the nearest hospital.

HOMECOMING CENTER

From the repatriation point, the men are transported by medical evacuation aircraft to the Joint Homecoming Reception Center (JHRC), which has been activated at Clark Air Base in the Philippines. The JHRC site was selected because of its proximity to release points and because of the adequacy of the hospital facility there.

The primary emphasis throughout "Homecoming" is on caring for the medical needs and welfare of the returning men. The rationale for an interim stay at an overseas medical facility—the overseas JHRC at Clark—is to assure that the individual's medical condition would not be impaired by an extended and tiring trip to the United States.

The period of time that a man remains at the reception center is based on the medical staff's evaluation of the individual's health and the individual's desires. It is believed that the men should not be returned so fast that it would be detrimental to their health or make the journey uncomfortable. Conversely, it is not desired that the men stay overseas one day longer than absolutely necessary.

TO UNITED STATES AS SOON AS POSSIBLE

The best medical facilities are available in the United States. It is intended that the men come home to their families and to these facilities just as soon as the doctor say they can travel. Any unnecessary time overseas is not regarded in the best interests of the men. There is no specified period that the men remain at the Homecoming Center. Each man is treated on an individual basis. Based on the varying medical conditions of the men, the period of time overseas can be expected to vary among individuals.

NECESSARY FAMILY TRAVEL OVERSEAS

Should it be necessary for the man to remain overseas for an extended period, the family reunion could occur at Clark, if the man and his family so desire.

Therefore, upon a man's arrival at the reception center, medical checks are made to determine his readiness to travel to the United States. If immediate medical treatment is required, it will be provided.

PERSONAL AND FAMILY INFORMATION RECEIVED

There are other requirements which must be met during this period, and they have been prepared for. One of the immediate concerns of the man is for his family and for information of a personal nature. An individual personnel brochure for each man has been sent to the Homecoming Reception Center. Included in that brochure is pertinent information pertaining to promotions, pay and savings.

One special section includes sensitive family information. In coordination with the families, items such as information regarding deaths or illnesses of relatives that have occurred since the man's capture have been included. Jointly with the families, instructions as to how and when the man will be advised of these events have been developed. Personal messages and photographs provided by wives and parents are also included.

TELEPHONE CALL HOME

One of the first things that each man has is an opportunity to make a telephone call to his family.

Personal comfort kits—toiletries for each man—are available at the Homecoming Reception Center. A new uniform, complete with appropriate rank in-

signia and up-to-date decorations, is also on hand for each individual. Clothing has been individually prepared, based on size information available from personnel records. Arrangements have been made for tailoring facilities as necessary. Special arrangements have been made for disbursement of accumulated pay as the man desires.

DEBRIEFINGS SCHEDULED

Another of the requirements at that time is an initial debriefing. Debriefing, though, is secondary to the man's medical and welfare needs and is conducted only when medically permitted.

The question often arises: Why the urgency to debrief these men? The initial debriefing is for the sole purpose of securing information on men missing and men not returned. Great urgency is attached to such information by the families of missing men. It has been found from experience with returned men that they are, in fact, eager and anxious to give that information to Service representatives immediately upon release—before their memory is confused by the influence of the many activities that will occur after release.

MOST VALUABLE INFORMATION SOURCE

As an example of how valuable the men are as sources for this type of information and the importance that the men themselves attach to it, one of the earlier returnees from Southeast Asia had memorized the names of 350 men and much information about their conditions.

As the PWs are judged medically fit, they are transported by specially configured C-141 medical evacuation aircraft. For maximum comfort and relaxation of passengers, each aircraft has both a bed and a seat for each man. Aboard is a complete medical staff. Each man also has a Service escort.

SERVICE HOSPITAL NEAR HOME

In most cases, the medical evacuation flights from Clark land at Travis Air Force Base, California. Once in the United States, the men are transported, in most cases, to Service hospitals near the homes of their next-of-kin. Exceptions are made in those instances where the medical needs of the man require specialized facilities or medical treatment.

At the Service hospitals, preparations are in order for the moment that the men and their families have been waiting for—family reunion. Reunions occur as soon as possible after the men arrive.

The precise manner and timing of the reunion and those in attendance is determined by medical advice and the desires of the man and his family. DOD and the Services prefer, and families agree, that the reunions should take place privately. Large crowds and fanfare may hinder the reunion that the men have envisioned.

MAXIMUM FAMILY ASSISTANCE

Throughout the entire "Homecoming" operation, contact will be maintained with the families and every possible assistance given to them. DOD and the Services presently maintain comprehensive programs of family assistance. Those programs will be expanded and tailored for the different needs which may arise during repatriation.

Families will be transported to hospitals in the United States at Government expense, and arrangements have already been made for lodging during their stay. They will have special escorts and will be provided all of the details concerning what is happening and what will occur during the processing of their men.

MOST FAMILIES ALREADY BRIEFED

The Services have long conducted programs to familiarize families with the problems they have to face. A special program of briefing the families on the exact procedures of "Homecoming" was completed by the four Services. More than 2,000 family members had been personally briefed in detail. This was done at the direction of then Secretary of Defense Melvin R. Laird by special teams which included medical doctors, psychiatrists, plans and policy officials, legal officers, casualty assistance officers and comptroller personnel.

The families were familiarized with the captivity situation, the physical and psychological effects on the men, the procedures that apply in receiving and caring for the men, and the assistance that will be provided to the families. In

addition, the Department of Defense distributed a pamphlet, prepared especially for families, summarizing repatriation planning.

In many cases, there will be a need for medical processing to continue even while the family reunion is occurring. The principal concern remains the medical well-being of the man. His medical evaluation and treatment will be completed at a hospital in the United States, and the definitive care necessary to return him to normal health will be provided there. Debriefing also will be completed.

Why is it necessary to debrief men who have been through such an experience?

The necessity to secure information about the men who do not return has already been mentioned. In addition, each of these men has gone through a unique experience. DOD and the Services want to learn of that experience so that insight into the captivity environment can be gained, and others—who might be so unfortunate as to be captured by an enemy in the future—can be better prepared for the experience.

RETURNEES WELCOME DEBRIEFING

More importantly, experience has shown that every man who returns from captivity urgently needs to tell his story—not publicly, but privately, to someone who will listen, not critically or with sympathy, but with empathy and understanding. He is eager to tell his story; it is important to the man.

Within the Services, trained personnel are prepared to handle the debriefing job, both overseas and in the United States. Special training programs have been conducted to sensitize the debriefing specialists to the entire prisoner-of-war/missing-in-action problem and to the individuals they will debrief.

SPECIAL CAREER COUNSELING AVAILABLE

In addition to the necessary medical care and debriefing, DOD and the Services are prepared to do all of those things bearing on readjustment and a return to a normal life. There are many administrative matters relating to a man's return to his Service, such as pay, other entitlements and benefits.

Extensive preparations have been made to provide the individual, at his desire, a resumé of national and international events that have occurred in his absence. Films, recordings, and written material were collected for that purpose. Included are materials on current events, sports, hobbies, and the like.

A major program is career counseling. Plans for a specialized career counseling program were completed. The men may need careful guidance to help them resume either military or civilian careers. Once the returned man makes a decision, further specialized assistance in pursuing his chosen course will be furnished.

HOSPITALIZATION PERIOD FLEXIBLE

The length of time a man spends in the hospital depends on his medical needs. As a general policy, each man will get, as medically appropriate, a generous period of convalescent leave.

MEN MISSING IN ACTION: ACCOUNTING EFFORTS INCREASE; FAMILY ASSISTANCE CONTINUES

One additional matter remains. At the time of repatriation, DOD and other officials are faced with the distressing problem of those men who are missing and do not return. The fullest possible accounting is necessary to determine the fate of those men, and their families cannot be forgotten in efforts to receive and process those men who have returned.

Information obtained from the returned men, it is hoped, will provide a valuable input in the determination of the status of many men who are missing in action. DOD and the Services are prepared for the task and will provide every possible assistance to these families.

[From the Washington Star, Apr. 27, 1976]

HANOI GENERALS TELL FINAL VICTORY STORY

(By Fox Butterfield)

HONG KONG.—North Vietnam's leaders did not expect their offensive last year to achieve complete victory—and they were surprised by the speed of

Saigon's collapse, according to a lengthy new account by Hanoi's chief of staff of the war's final battles.

Gen. Van Tien Dung reported that when hundreds of thousands of South Vietnamese troops and civilians fled in panic from Pleiku in the Central Highlands, beginning the rout, he was almost incredulous.

"Why such a retreat? And who had given the order for it?" Hanoi's politburo and top generals had planned only a series of attacks that would set the stage for a general offensive and uprising in 1976 to "completely liberate the South."

Dung's disclosure is contained in a remarkably detailed and candid account of how Hanoi planned and achieved its final victory in South Vietnam last year. The report, written in the first person, is being carried in serialized form by two of Hanoi's official newspapers, Nhan Dan and Quan Doi Nhan Dan, under the title "Great Spring Victory—A Summation of Senior General Van Tien Dung's of the Combat Situation in Spring 1975."

So far nine installments, totaling about 40,000 words have appeared, bringing the narrative up to the sudden abandonment of Pleiku on March 16, six weeks before the fall of Saigon. It is not known how many more articles will appear.

Dung's account was evidently timed to coincide with the first anniversary of the Communists' triumphant entry into Saigon on April 30, and with yesterday's election in North and South Vietnam for a unified national assembly.

He and Vo Nguyen Giap, North Vietnam's minister of defense, had last July jointly published a much shorter and less detailed report of the victory.

Apparently because the Communists have now essentially achieved reunification of the North and the South, Dung makes no effort to preserve earlier Communist statements that there was a separate movement in the South, which they called the National Liberation Front and Americans termed the Viet Cong.

On the contrary, Dung, who is a member of the politburo of the Lao Dong or Workers' party, provides a vivid description of how the politburo and the Central Military Party Committee, operating from what he calls "Dragon House" in Hanoi, directed the war.

For instance, the general reports that to supply their forces in the South 30,000 North Vietnamese troops and "shock youths," including women, built a network of roads inside South Vietnam after the 1973 Paris peace agreement ended American bombing. The new network, which he says was 12,000 miles long, replaced the less convenient Ho Chi Minh Trail farther west in Laos and Cambodia.

Included in the new system were one 25-foot-wide highway from the North Vietnamese border to Loc Ninh near Saigon, 3,000 miles of oil pipelines and a cable-telephone system linking Hanoi with Loc Ninh. As a result of this system, Dung says, when the 316th North Vietnamese Division was ordered to move from North Vietnam to the Central Highlands in the South, it was transported directly in 500 trucks.

Dung, a 59-year-old native of North Vietnam, records that he was delegated by the politburo to go to the South to take personal command of the main part of the 1975 campaign, which was to be launched in the highlands.

To conceal his involvement and to prevent American or South Vietnamese intelligence from discovering that a major offensive was about to occur, Dung took elaborate precautions. For example, his personal Soviet-made Volga sedan continued to make its regular rounds to his house and office after his departure. The general's secretary, who accompanied him to the South, feigned illness and was taken by ambulance to a hospital, from which he could leave without his neighbors suspecting anything.

Among the other disclosures made by Dung are the following:

- Hanoi reached its decision to attack in the Central Highlands, and to begin with an assault on the town of Ban Me Thuot, at a series of Politburo meetings from Dec. 18 to Jan. 8.

The senior Communist officials in South Vietnam, including Pham Hung, the fourth-ranking member of the Politburo, and Gen Tran Van Tra, whom recent Communist articles have identified as the southern military commander, were called to Hanoi to attend the meetings.

- The Central Highlands and particularly Ban Me Thuot were selected as the theater of battle, Dung related, because Hanoi had learned that President Nguyen Van Thieu believed the Communists would attack Tay Ninh, near Saigon, and had stationed fewer troops in the highlands than in any other area.

Moreover, Saigon's commander in the highlands, Gen. Pham Van Phu, "miscalculated" that if the Communists did attack in the highlands, they would strike

Kontum and Pleiku farther north, and he had left only one regiment at Ban Me Thuot. But Dung says that he secretly concentrated three divisions at Ban Me Thuot alone.

- Dung confirms a statement by President Thieu and American officials that reductions ordered by Congress in American aid seriously impaired the South Vietnamese Army's ability to fight.

By Dung's estimate, Saigon's firepower was cut by 60 percent because of lack of bombs and ammunition, while its mobility was reduced by half "due to lack of aircraft, vehicles and fuel."

- Throughout the fall of 1974, Hanoi's leaders "heatedly discussed" whether the United States would intervene again if the Communists staged a new offensive. Finally, Le Duan, the first secretary of the party, concluded that "having already withdrawn from the South, the United States could hardly jump back in."

Dung's account of lengthy meetings and lively debate seems to confirm what specialists have long believed, that Hanoi's leaders do function collectively and Le Duan, while the most powerful figure in the North, is far from being a dictator.

Dung says that "unanimity" had to be reached before the campaign plan could be put into operation, and he describes a military meeting at which Le Duc Tho, a civilian member of the politburo, came in unexpectedly to check on what targets were being selected.

[From the Congressional Record, Apr. 28, 1976]

CAMBODIAN EMBASSY CONTACTED IN PEKING BY CONGRESSMAN WOLFF OF NEW YORK REGARDING MISSING PERSONS

(Mr. Montgomery asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I would like to commend the gentleman from New York (Mr. Wolff) and thank him on behalf of the Select Committee on MIA's for delivering a letter from our committee to the Cambodian Embassy in Peking.

As you know, we have had considerable difficulty contacting the new Cambodian Government in order to determine the fate of U.S. servicemen and newsmen missing in Cambodia. When we learned that Mr. Wolff was planning a trip to the People's Republic of China during the recent congressional recess we asked him to make an attempt to contact the Cambodians, which he readily agreed to do.

I wanted the Members to be aware of the gentleman's efforts. Mr. Wolff has had a longstanding and deep concern for our MIA's and we appreciate the assistance he has given to the Select Committee on Missing Persons.

CONTACTING CAMBODIANS IN PEKING

(Mr. Wolff asked and was given permission to address the House for 1 minute, to revise, and extend his remarks.)

Mr. WOLFF. Mr. Speaker, I want to thank the chairman of the Select Committee on Missing in Action, the gentleman from Mississippi (Mr. Montgomery) for his kind words. However, I feel that it is important that the House of Representatives know the circumstances under which this letter from the Select Committee on Missing in Action was delivered to the Cambodians.

I requested our Legation to make arrangements for Congressman Burke of Florida and myself to meet or to deliver this formal request to the Cambodians while we were in Peking.

Unfortunately, I could not get the Legation to accompany me on this mission and we had to take a taxicab to the Cambodian Legation of the Cambodian Mission. In the time that it took for us to get the taxicab, I surmise from subsequent events, the Cambodians were notified that we were on the way.

When we arrived at the Mission, the Peoples Liberation Army guard who was present did not stop the cab from entering the driveway. It was quite obvious the Cambodians were notified for it is normal procedure for the PLA guard to halt visitors. We went to the door and rang the bell and got no answer. We rang several times. We got no response whatsoever, not even someone coming to the window of the Legation which, again to me was an indication that the Embassy in some fashion had been notified we were coming.

I tried the door, and the door was open. I walked in and attempted to rouse someone in the Embassy, to no avail. The other doors were locked, although I could hear voices in the background. In order to hand deliver this message, I left it on the official information desk in the front of the reception room. Therefore, hand delivery of this letter has been accomplished.

We received no response while we were in Peking.

Mr. Speaker, the families of the servicemen and civilians missing in action in Cambodia are anxiously awaiting word as to the fate of their next of kin. I sincerely hope that the Cambodians will take this opportunity to display the responsibility that is required of governments and make a positive response to the select committee's letter. At this time, I would like to list the names of the servicemen and civilians contained in this letter.

AMERICANS MISSING IN CAMBODIA

Servicemen listed as missing in action or prisoner of war, total, 24.

NAME, RANK, AND SERVICE NUMBER

U.S. Army

Bauman, Richard Lee, CWO, 291464724.
Becerra, Ruby Morales, SSGT, 400848087.
Boronski, John Arthur, SPC, 014347082.
Cochrane, Deverton C., SSGT, 034380828.
Dix, Craig Mitchell, SSGT, 371501934.
Harned, Gary Alan, SSGT, 207380219.
Harris, Bobby Glenn, SSGT, 460921537.
Hosken, John Charles, CWO, 293463290.
Kroske, Harold William, Jr., CAPT, 136381565.
O'Donnell, Michael Davis, CAPT, 387443597.
Pool, Jerry Lynn, CAPT, 462708764.
Price, Bunyan Durant, Jr., SSGT, 242801676.
Richardson, Dale Wayne, CAPT, 340347226.
Scherdin, Robert Francis, SSGT, 153381224.
Smoot, Curtis Richard, SSGT, 587052512.
White, Charles Edward, MSGT, 421365758.

U.S. Air Force

Cornellus, Samuel Blackmar, CAPT, 460623217.
Huberth, Eric James, CAPT, 214440489.
Lineberger, Harold Benton, LTC, 460460269.
Martin, Douglas Kent, CAPT, 092360973.
Smallwood, John Jackie, CAPT, 257707697.

U.S. Marine Corps

Hall, Gary L., PFC, 402888873.
Hargrove, Joseph N., LOPL, 243885570.
Marshall, Danny G., PVT, 234928919.
Civilians listed as missing, total, 9.
Flynn, Sean, Photographer for Time.
Hangen, Wells, CBS Correspondent.
Humphrey, Larry.
McKay, Clyde.
Nolan, McKinley.
Reynolds, Terry, UPI Reporter.
Stone, Dana, CBS Cameraman.
Walsh, Brian.
Yim, John.

MIA SELECT COMMITTEE COMMENDS MR. WOLFF FOR HIS EFFORTS ON BEHALF OF THE MIA'S IN CAMBODIA

[Mr. Gilman asked and was given permission to address the House for 1 minute and to revise and extend his remarks.]

Mr. GILMAN. Mr. Speaker, as a member of the House Select Committee on Missing in Action in Southeast Asia, I wish to commend the gentleman from New York (Mr. Wolff) for his efforts on behalf our committee to deliver our request

for MIA information to Cambodia. As my colleagues know, our committee has attempted to establish a line of communication not only with Cambodia but with Laos and with Vietnam. To date all of our efforts in communicating with the Government of Cambodia have been fruitless.

When we were in Hanoi during the December recess, we made a personal call upon the Cambodian legation in Vietnam and found that we received no response, and that there was nobody at home.

I hope that the message that the gentleman from New York (Mr. Wolff) has delivered will receive a response. I urge our Embassy people in China to exert an effort to try to obtain a response, and I hope that the People's Republic of China will assist us in that endeavor.

[From the New York Times, June 8, 1976]

VIETNAMESE DENY REPORT ON P.O.W.'s

PARIS, June 7 (UPI) — No American prisoners of war are still alive in Vietnam, North Vietnam said today, and any claim to the contrary is erroneous. The North Vietnamese Embassy issued a "clarification" of a meeting Friday with three Americans who reported that Hanoi officials had indicated some Americans were still being held captive.

"This is an erroneous interpretation," the embassy said of the comments by the Americans, two of whom traveled to Paris as representatives of a Veterans of Foreign Wars post in Fraser, Mich. "All the Americans captured in Vietnam have been returned to the Government of the United States."

Hanoi has refused to discuss tracing the 2,550 Americans still missing in Indochina or repatriating their remains unless Washington resumes talks on war reparations.

Two of the three Americans who visited the North Vietnamese Embassy were enroute home to Michigan today. Amsdill, the Fraser V.F.W. post commander, had said after the meeting at the embassy, "I know definitely on talking to them there are some American prisoners still alive in Indochina."

[From the Washington Post, July 25, 1976]

STILL TRYING, FORD SAYS ON MIA'S

Unless the issue of Americans still listed as missing in Southeast Asia is resolved, no further progress in establishing relations between the United States and Vietnam is possible, President Ford said last night.

Ford told the National League of Families of Prisoners and Missing Americans in Southeast Asia that his administration is "employing every effective means to account for your loved ones."

He promised that those efforts will continue, but cautioned that "information for every missing man may never be available."

"We are dealing with a government that has shown very little concern for your feelings," the President said.

He said the United States has exchanged messages with the Vietnamese "indicating our willingness to discuss differences."

But he added, "without a satisfactory solution of the MIA issue, no further progress in our relations is possible."

More than 900 Americans still are listed as prisoners or missing in action in Southeast Asia.

Rep. G. V. "Sonny" Montgomery, D-Miss., told the convention Friday that a House investigation has produced no confirmable evidence that any missing U.S. servicemen are still alive in Southeast Asia.

Montgomery, chairman of the House Select Committee on Missing Persons in Southeast Asia, said it serves no useful purpose to continue to hold out false hopes that a large number of the missing are still alive.

His remarks brought emotional and sometimes bitter reaction from those with loved ones missing.

The wife of an MIA, Susan Miller, fought back tears to tell the lawmakers, "Do not ask any man ever again to go to war unless you are going to back him 100 percent."

Montgomery, more than any other member of Congress, had maintained that American servicemen were being held in captivity despite the end of hostilities. His persistence led the House to create a House Select Committee on Missing Persons in Southeast Asia and he was named its chairman.

"Quite frankly, last September I believed we might be able to discover that anywhere from 150 to 250 U.S. servicemen were still being held as prisoners or managing a meager existence as men on the run in the countryside of Indochina," Montgomery said.

"However, I now realize this belief was based more on hope than fact and more on rumors than hard evidence. Like so many others I wanted to believe they were still alive, so I did."

[From the New York Times, Aug. 2, 1976]

49 U.S. CITIZENS AND DEPENDENTS FLY FROM SAIGON

(By David A. Andelman)

BANGKOK, Thailand, Aug. 1—Forty-nine United States citizens and dependents of Americans—virtually the last in Vietnam—were allowed today to fly from Saigon to Bangkok, ending more than a year of uncertainty about their fate.

Their journey, arranged by the United Nations, marked the virtual end of a long American presence in Vietnam that involved half a million troops at the height of the war there. Those who left today had been stranded when the Communists took over Saigon on April 30, 1975.

Only four Americans are known to be still in Vietnam and at least three of them are expected to leave within a week. But some United Nations refugee officials suspect that others could be scattered in remote regions of the country.

12 CHILDREN IN GROUP

Those who arrived here today—23 American passport holders and 26 dependents, including 12 children—told a variety of stories of life in Vietnam in the last year. Some told of harsh imprisonment. Others told of leisure.

Most said they were relieved that the waiting for permission to leave was finally over, though a few said they had pleaded to no effect to be allowed to stay in Vietnam. Some told stories of a country in chaos, others praised the "revolution" there.

No official reason was given by Hanoi for the sudden decision last week to release this last large group of Americans. However, an official of the United Nations High Commission on Refugees, which was asked by the Vietnamese Government to organize the evacuation, observed:

"The Vietnamese are very conscious of the need to normalize relations with the United States both for their immediate and long-term good. They no doubt see anything that can contribute to settling the question of United States nationals as a positive step."

3 TAKEN FROM PRISON

As they transferred from the white Air France Caravelle jet to shuttle buses for the ride to the airport terminal building here, most of those arriving chatted quietly among themselves. Three tiny puppies escaped from a woman's wicker basket and scampered over laps and under feet.

Three of the people who arrived had been taken directly from Chi Hua Prison in Saigon to Tan Son Nhut airport there this morning. One of them is Sherman Bennett of Grand Rapids, Mich., a former radio engineer who had spent, he said, 2 months and 27 days in jail while the Vietnamese authorities investigated an accident more than two years ago.

"I sure was happy to get out of there," he said, beaming. "But before I went in there, life was pretty quiet in the last year. Just sat around, played a lot of tennis and drank."

Herman A. McDonald, 36 years old, of San Raphael, Calif., said he had spent several months in various Vietnamese jails in An Nhon Province on the central coast. From the fall of Saigon through the end of June, 1975, he said, he managed to avoid repeated efforts by the Vietnamese Army to capture him, hiding in his Vietnamese wife's house, working in the rice fields and fishing with nets in the rivers.

Finally, the Vietnamese caught him and his wife, detaining her indefinitely and allowing him to return to his village. A week ago he was summoned to Saigon for today's flight. He was not, he said, pleased to leave.

NOT A VERY NICE PLACE

Frederick Gulden, however, said he was glad to go. Mr. Gulden, a 53-year-old architect from Chicago, voluntarily stayed behind, watching the last American evacuation aircraft take off from Saigon in April last year, so that he could try to get out of the country the local employees of his construction company for whom he felt a strong responsibility.

He was glad, he said, that he had stayed behind to help his people, but he added, "it's not a very nice place there these days."

"The authorities are sending people out to the countryside with no support, no food," Mr. Gulden said. "There's malaria everywhere. They're dying like flies, and there's practically no Western medicines."

[Reuters quoted Mr. Gulden as having said that a number of people were "stripped to their shorts or nothing at the airport today before we were allowed to fly out here." There was no immediate explanation for the stripping.]

Maurice J. Bauhahn, 31-year-old medical technician from Grand Rapids, agreed there were "many problems" in the health-care system in Vietnam.

Mr. Bauhahn was a medical technician in the Seventh Day Adventist hospital in Saigon when the Communists took over. For a brief period, he said, they helped to continue the operations of the hospital.

"But now it's an air force hospital," he said. "And a lot of the equipment was taken out to Chung Chang Hospital in Cho Lon. All of the good hospitals now, those that were foreign-financed, are only for the military and the cadres, not for the people."

For most of the last year, Mr. Bauhahn worked for the International Red Cross. He said that he recently applied for Vietnamese citizenship, but was turned down.

Paul Louis Horton, who stated he formerly worked with the International Voluntary Services, a private agency doing Peace-Corps type work, said he, too, wanted to stay on in Saigon, although he was taken to the plane today from Chi Hua prison. He had been picked up, he said, as a "potential" member of the Central Intelligence Agency but the Vietnamese finally decided that his crime was "just too much wandering around."

Mr. Horton, who had been in jail since his detention April 6, said he had been well treated. "The people are better off now in Vietnam," he said. "Sure some, particularly the middle classes, are poorer. But there are more services available—in health, education and so on."

Those who had not been imprisoned said that in general they had been well treated by the Saigon authorities in the last year.

Some lived with friends or relatives who also helped out when funds ran short. "There was always enough to eat," Mr. Gulden observed.

Most said they had simply waited for the day when their names would finally show up on the list for the flight to Bangkok.

Three of those Americans known to be still in Vietnam are expected to leave on the regular French-operated Saigon-Bangkok shuttle this week.

Richard Hughes, a well-known shoeshine stand operator in Saigon, was given a few days to wind up his business. Theresa Reed, an American with friends in France, indicated her wish to go to Paris rather than the United States. The third is Harlow Gay, a black married to a Vietnamese woman, who is believed to have been in jail for some time.

The fourth American, not mentioned officially by the Vietnamese, is believed to be Tucker Gugelman, who has either disappeared or is in jail.

These are the Americans who have registered with the Vietnamese authorities. United Nations refugee officials believe there may be others who have never registered and who continue to live in remote areas.

ONE WHO WANTED TO STAY

BANGKOK, Aug. 1 (AP)—"I wanted to stay in Vietnam, I wanted to serve in any way I could, even work as a laborer," said Yee Leong Ching, an American of Chinese descent who was among those flown from Saigon to Bangkok today.

He said, he, his wife and two children made it to an evacuation point when

the Americans evacuated Saigon in April 1975 but were teargassed by United States Marines as they tried to clamber aboard a helicopter.

He said he applied for Vietnamese citizenship but never heard from the authorities. "There is no place now in Vietnam for foreigners to work, even if they are pro-revolution," he said.

Most of those arriving here said they had spent the last 15 months going to the immigration office, which kept postponing their departure, playing tennis and listening to foreign news broadcasts.

[From Newsweek, Aug. 9, 1976]

MIA'S: LIVES IN LIMBO

On May 12, 1968, S/Sgt. Danny Lee Widner picked up his gun and trudged off on his last patrol in Vietnam. He was 28, a family man with a divorced wife, a 3-year-old son—and worried folks waiting for him back home in Texas. He was looking for enemy troops along the Laotian border that day. He found them. And when the shooting stopped he was gone without trace—missing in action. Sergeant Widner's ex-wife waited six years before she asked the Pentagon to list the missing man as presumed dead. But Sergeant Widner's mother opposed the paperwork burial for her son. "We want Danny accounted for," she said softly last week. "If he's alive, we want him back. If he's dead—then we want to know."

Answering the ifs of such awful reckonings has become the most painful legacy of the war in Indochina. Last week, the Pentagon's list of Americans missing in action in Laos, Cambodia and Vietnam ran to 795 names, a small army of invisible men whose ranks range from combat pilots to humble foot soldiers. No one knows for sure what happened to any of them. In frustration, some of their families have taken to accusing the nation of forgetting them—and the Ford Administration of selling them out. In self-defense, a few nettled government men have retorted that some MIA families are beginning to look like thankless goldbricks themselves. The exchange has been nasty—but human. Its real source is despair—and guilt—over what looks like a blood-red bottom line: that all the men missing in Southeast Asia are now almost certainly dead.

That prospect draws shudders and cries of protests from the living, some of whom have been waiting for twelve years for their men to return. "We're being told: 'Nobody's alive over there. Let's just forget it,'" reports Robin Gatwood, a North Carolina music professor whose son, Robin, was lost in Vietnam on Easter morning, 1972. "I've never known so many ways of alibing for not taking action."

SQUEEZE

The complaint is understandable, but the task of finding the MIA's isn't quite that easy. After the release of American POW's in the spring of 1973, there were 1,363 Americans on the MIA rolls.¹ Most were men lost in crashes over remote mountains, in rivers and harbors or at sea. Others disappeared in dense jungles—or behind enemy lines. To make matters worse, according to officials at the State Department, the governments of Laos and Cambodia have both balked at supplying a complete list of American POW's or dead. North Vietnam, seeking to squeeze \$3.3 billion in reconstruction aid from the U.S., and to counter U.S. efforts to block its admission to the U.N., has choked off any information it may have. And in the heat of a close election year, old wounds of an unpopular war have also slowed progress.

The government has expended considerable effort on behalf of the MIA's. To track down the missing, the Pentagon debriefed returning American POW's and enlisted the help of the CIA and other intelligence units. A House Select Committee also launched an investigation of its own, taking testimony in the U.S., Paris, Geneva and Indochina. The result was a torrent of fragmentary sightings, rumors and memories that helped clear up some cases, but only rekindled and sustained the hopes of many other MIA families. "No one has the guts to tell those people there's no rational basis to believe that any of these men is still

¹ American MIA's totaled 6,058 after World War II. By law all were presumed dead a year and a day after they disappeared. After the Korean War, 5,127 MIA's were listed as presumed dead.

alive," says GOP Congressman Paul McCloskey, a member of the House committee.

Nor is there anyone in Washington who really wants to. Federal court orders now stipulate that no MIA may be declared dead unless the Pentagon first notifies his next of kin, provides legal counsel—and offers relatives the chance to present evidence refuting any change in classification.

In the meantime, the benefits paid to MIA families are substantially more generous than those that go to the widows and children of men killed in action. They run from full pay (tax free) to family separation allowances, food and quarters allowances, accrued leave, promotions and free transport on military aircraft. Many MIA wives now receive between \$20,000 and \$30,000 each year. In addition special savings accounts paying 10 per cent interest have also been set up for MIA families. Deposits in the accounts of some unmarried MIA's now run as high as \$200,000. "We are in a comfortable position financially," said Mrs. Iris R. Powers at an MIA hearing in Congress late last year. "Some may not be willing to change that. I know that sounds terrible, but one must be realistic."

APPLE PIE

The bills now cost the Pentagon about \$24 million each year. This is roughly \$15 million more than would be paid if all the MIA's were buried with a single bureaucratic stroke of the pen. The difference is small in a Defense Department budget that stands at a gargantuan \$114 billion. But the mercenary moves of a few MIA families have stung a number of U.S. officials into protest. Edwin Maney, a Pentagon political scientist who acts as a contact with MIA groups, discovered that one woman had maintained her husband's name on the military MIA roll, thereby collecting maximum benefits—and had also listed him as legally dead in Illinois, to collect his life insurance. "The insurance companies wouldn't touch the thing," he shrugged last week. "This is mom and apple pie."

Despite such abuses, the persistence of hope is something no one wants to shatter. And the real burden of keeping faith with the MIA's will still fall upon their families, where its emotional toll is enormous. "It has totally suspended my life," says Mrs. Kay Bosiljevac, 28, whose husband was shot down in Vietnam four years ago. Today her son still asks when his daddy is coming home—and why he can no longer mail him packages. Mrs. Bosiljevac says she can neither answer the questions adequately nor start a new life until the Pentagon finds her husband—dead or alive. And like other MIA wives, she will keep pressing for an answer. "We won't stop," she said quietly last week. "It's a matter of honor—one of the basic things this country is all about."

[From the Washington Post, Sept. 7, 1976]

VIETNAM GIVES NAMES OF 12 DEAD AIRMEN TO THE UNITED STATES

PARIS, Sept. 6 (AP)—The Vietnamese government today gave the U.S. embassy the names of 12 American airmen it said were killed in the Vietnam war. The 12, who included Air Force Capt. Bruce C. Ducat of Bethesda, had been listed by the United States as missing in action.

A statement from the Vietnamese embassy said the Communist government in Hanoi "shares the feelings of American families who have relatives who disappeared in Vietnam." It said the list was delivered as a goodwill gesture.

In Washington, President Ford's chief spokesman said "we are encouraged" by Vietnam's releasing the names. But White House press secretary Ron Nessen added there are no plans to normalize U.S.-Vietnamese relations until a complete accounting is made of Americans listed as missing.

Nessen said Vietnam earlier "agreed to release all 1,000 names" of missing American servicemen.

A State Department spokesman termed the Vietnamese action "a positive step." But he stressed that today's list "deals only with a small portion of the many hundreds of outstanding cases of men missing in action in Indochina," and called upon Vietnamese government to provide "as full an accounting as possible for all our missing men without further delay."

Rep. G. V. "Sonny" Montgomery, chairman of the House Select Committee on Missing Persons in Southeast Asia, said the Vietnamese move "could be tied in with Vietnam's efforts to gain admission to the United Nations. The United States blocked this request last year."

Montgomery said it was significant that the Vietnamese provided the information to the embassy rather than to his committee.

"The North Vietnamese for the last year have dealt strictly with our committee and not the State Department pertaining to matters affecting our countries." He said the contact with the embassy "is the proper channel if any type of relationship is to develop between our two countries."

All the airmen were shot down between 1965 and 1968, most—if not all—over North Vietnam, Montgomery said. He said the list supplied to the embassy is evidence the Vietnamese have the remains of the 12 airmen or positive information, that they are dead.

The Vietnamese statement identified the 12 as: Capt. Ducat, Air Force Maj. Elwyn Rex Capling, Navy Capt. William M. Roark, Air Force Maj. James H. Metz, Navy Lt. Cdr. Thomas O. Kolstad, Navy Lt. William Blue Klenert, Air Force Lt. Stephen W. Diamond, Air Force Maj. Curtis Abbot Eaton, Air Force Capt. Samuel Edwin Waters Jr., Navy Lt. Cdr. Roy Howard Bowling, Air Force Capt. Lawrence H. Goldberg and Navy Lt. Cdr. Guy David Johnson.

AIRMEN'S MOTHER VOICES FEELING OF "SAD-RELIEF"

(By Martin Well)

The mother of an Air Force officer who had been listed as missing in Vietnam since 1966, said yesterday she felt "relief, but sad relief" when she learned his name was on a list of war dead given the United States by the Vietnamese.

Air Force Capt. Bruce C. Ducat, son of Mr. and Mrs. Alexander C. Ducat, of 8105 Custer Rd., Bethesda, had not been heard from since his Phantom jet was shot down over North Vietnam Dec. 2, 1966.

Until yesterday, Mrs. Ducat said, she and her husband had clung to the hope that their son, whose parachute had been seen opening, was still alive. "Hope is the last thing you give up," she said.

A friend telephoned Mrs. Ducat yesterday morning to say that Capt. Ducat had been named on a radio news report as one of 12 persons on a list of war dead turned over to the U.S. Embassy in Paris by the Vietnamese government.

"It was kind of a shock," Mrs. Ducat said, "I couldn't believe it." She said she expected such information would come first from the government, but that she did not hear from the Air Force until about an hour later.

In the sense that it ends years of wondering and uncertainty, Mrs. Ducat said, learning conclusively of her son's fate is a "relief, but a sad relief." However, she added, "We still don't know what happened after he bailed out."

She said a 1969 report that Capt. Ducat was a prisoner was found to have been based only on a use of his helmet by the North Vietnamese in a display.

In 1970, Alexander Ducat, a retired federal employee, met with the North Vietnamese peace delegation in Paris and offered to go to North Vietnam as a prisoner and set up technical education programs in return for his son's release. He received no response.

Both Mr. and Mrs. Ducat are active in the National League of Families of American Prisoners and Missing. Mrs. Ducat said they will continue to work in behalf of the hundreds of other missing servicemen.

STATEMENT BY DEPARTMENT OF STATE SPOKESMAN, SEPTEMBER 6, 1976

We are pleased to receive the information provided and consider it a positive step. The list given us, however, deals only with a small portion of the many hundreds of outstanding cases of men missing in action in Indochina. We cannot believe that the Vietnamese wish to trade on the misery of American families and therefore we call upon the Vietnamese authorities to provide as full an accounting as possible for all of our missing men without further delay.

PRESIDENT FORD'S COMMENTS, SEPTEMBER 7, 1976

At my direction, the American Embassy in Paris contacted North Vietnamese representatives and informed them that we expect that the United States will

be provided with a full accounting without further delay of Americans missing in action in Southeast Asia.

Speaking on behalf of all Americans, I welcome the fact that the Vietnamese have finally begun to keep their promise to provide information on our men missing in action in Southeast Asia. The report on these 12 men was grim. It at least resolved their status and removed the crushing burden of anxiety and uncertainty from their relatives and loved ones.

But none of us can be satisfied by this limited action by the Vietnamese. What they have done is to release information on only a dozen men. They still have information on hundreds more. For wives, parents, and friends of the men still missing, the anxiety and uncertainty still continues.

It is callous and cruel to exploit human suffering in the hope of diplomatic advantage. The North Vietnamese have an obligation to provide a full accounting of all Americans missing in action. I call upon them to do so without further delay. Normalization of relations cannot take place until Vietnam accounts for all of our men missing in action.

[From the New York Times, Sept. 15, 1976]

U.N. COUNCIL DELAYS DECISION ON VIETNAM UNTIL U.S. ELECTION

(By Kathleen Teltsch)

UNITED NATIONS, N. Y., Sept. 14—The Security Council decided today to put off consideration of reunified Vietnam's request for United Nations membership until November, or in effect until after the United States Presidential election.

The decision followed negotiations initiated by Secretary of State Henry A. Kissinger with the French President, Valéry Giscard d'Estaing, whereupon France obtained Vietnam's agreement.

The postponement spares the Ford Administration from antagonizing Vietnam's many supporters among foreign governments by using the big-power veto to block Vietnam.

U.S. ANNOUNCES VETO PLAN

Yesterday it was announced that the United States was ready to veto Vietnam because there was "no progress" in getting a full accounting of American servicemen missing since the Vietnam war.

At the same time postponement removes a potentially sensitive issue from the Presidential election campaign.

It was not immediately clear why Vietnam had agreed so readily to the postponement. Nor was there any indication here that the American opposition to Vietnam's admission would change after the election of Nov. 2.

The behind-the-scenes negotiations leading to the council action were reported by diplomatic sources here and by a French Foreign Ministry official in Paris. A high State Department official in Washington, who refused to be identified, denied that Mr. Kissinger or the department had been involved.

France proposed the postponement under what a French Foreign Ministry official in Paris described as an "informal agreement" between Mr. Kissinger and President Giscard d'Estaing. The official said Mr. Kissinger had raised the issue at a breakfast meeting with Mr. Giscard d'Estaing a week ago.

The surprise decision was announced in a short statement by the Council president, Mansur Rashid Kikha of Libya, after private consultations by the 15 Council members.

U.S. CITES DELAY ON MISSING MEN

Mr. Kikha said that at the initiative of the French delegation, it had been decided to postpone the question until a date in November in order that the General Assembly might discuss it at its coming session and that the Vietnamese had consented.

The Assembly begins its 31st session on Sept. 21 but the intention clearly was to put off the matter until Nov. 2, when it would no longer have a bearing on the United States election.

William W. Scranton, the chief United States delegate, after a meeting with President Ford in Washington yesterday, announced that he had been instructed to veto the Vietnamese application because there had been no progress in getting Hanoi to give a full accounting of the almost 800 American servicemen missing since the Vietnamese war.

Vietnamese authorities denounced the move in statements charging that President Ford's real concern was not the missing Americans and their families but the "vote in his election."

Applicants must be recommended for admission by a nine-vote majority of the Council but a membership request can be blocked by the negative vote of any of the five permanent members—Britain, France, China, the Soviet Union or the United States.

The United States last year used its veto to bar Hanoi, which was approved by the 14 other members, giving as its reason the Council's refusal to even consider the long-pending application for entry by South Korea.

While there was no intimation from United States officials whether there would be a change in the United States' attitude after Nov. 2, it was suggested that Hanoi's prospects would be improved if further information was provided on the missing Americans.

On Sept. 5 Hanoi provided the United States with the names of 12 airmen who were listed as missing but who the Vietnamese said now were killed. The Vietnamese termed this a goodwill gesture but the Americans responded by saying that it was not good enough in light of the hundreds of others still listed missing.

The office of the Vietnamese observer here said that it had acquiesced with France's suggestion about postponing the membership issue to show once again its goodwill.

Hanoi's willingness not to press the membership question at this time was seen by some here as providing it with an opportunity to demonstrate a reasonable and cooperative policy.

By contrast, the United States' threat of a veto, while popular with some American voters, was seen by a number of delegates as a foreign policy blunder certain to be exploited by critics of the United States.

[From the Wall Street Journal, Sept. 16, 1976]

PUTTING VIETNAM ON HOLD

A promised veto by the U.S. prompted the UN Security Council to postpone consideration of Vietnam's UN membership application until November.

No doubt those who guide such matters feel that the U.S. position will soften after the election is decided. But we would caution that whether the U.S. softens is largely up to Vietnam itself and its willingness to reveal all it knows about American servicemen listed as missing in action.

Vietnam made a token gesture recently when it turned over the names of 12 American fliers it says were killed during the war. But U.S. officials are convinced that, since Hanoi had the identity cards of the fliers, it has been withholding the information for up to 10 years.

Moreover, the dozen names represent only the barest fraction of the approximately 2,500 Americans listed as missing or presumably dead but unaccounted for in Southeast Asia. It's unlikely that Hanoi has information on all of them, but the State Department is certain that Vietnam has varying amounts of information on perhaps one-quarter of them. In testimony given to a House committee, returned U.S. POWs have mentioned other U.S. servicemen held in captivity in North Vietnam who are still unaccounted for.

But Hanoi's long range purposes are not so much cynical as materialistic. Specifically, Hanoi continues to hope the U.S. will favor it with aid in order to help rebuild its war-damaged economy. Government spokesmen have repeatedly said the Nixon administration promised such aid in talks leading up the Paris peace accord of 1973.

What they don't say, of course, is that any mention of economic assistance was contingent on a peaceful settlement of the war between North and South Vietnam. Instead, Hanoi effectively absolved the U.S. of any such commitment when it overran and militarily conquered South Vietnam. For the moment Hanoi is playing down its contention that the U.S. "owes" it economic assistance, since UN membership seems to be at the top of its priority list, but it has repeatedly pressed that point in the past.

We have serious doubts that many Americans will be persuaded by the argument that American taxpayers somehow owe Vietnam reparations for war damage that resulted from Hanoi's aggression—aggression, incidentally, that was recently admitted by no less than General Van Tien Dung, North Vietnam's chief of staff.

As for UN membership, there is probably no good reason any longer to proscribe any nation, now that everyone recognizes as a joke the qualification in the UN charter limiting membership only to peace loving nations. But Washington should continue to insist on a genuine quid pro quo, beginning with the demand that Hanoi stop using MIAs as pawns.

[From the New York Times, Sept. 20, 1976]

LAOS: PROMISES, PROMISES

Probably no Communist party in the world has urged as often or as long—over a period of two decades—a coalition government with its country's major non-Communist parties, and continuation of a pluralistic society, as has the People's Revolutionary Party of Laos. Promises and performance, however, match poorly.

Only days after Hanoi's victory in the Vietnam war, the Pathet Lao moved in May 1975 toward complete control of the year-old Provisional Government of National Union, the latest of a series of coalition governments with traditionalist and neutralist parties. The top political and military leaders of the non-Communist forces fled to Thailand, leaving only a facade of lesser figures, plus the then powerless neutralist Premier, Souvanna Phouma, and the Royal family.

In December, the facade was eliminated. The coalition and the 600-year-old monarchy were abolished and the Communist Party, clandestine until then even within the Lao Patriotic Front—the political arm of the Pathet Lao—announced its existence for the first time and the names of a few of its leaders. Nine months later, only seven members of the party's Politburo and 15 members of its Central Committee have been identified. But their iron, totalitarian grip on a small, gentle people is everywhere visible, as are their disastrous policies of centralized control and doctrinal, inefficient management.

More than 100,000 and perhaps as many as 200,000 Laotians have fled across the Mekong river to Thailand, denuding the country of most of its skilled technocrats, agronomists, economists and businessmen. At least 20,000 others have been arrested and sentenced—usually without trial—to indefinite terms in "re-education centers" deep in the jungles and mountains. Severe restrictions against travel out of rural areas sharply reduced the urban food supply—until a recent relaxation of the regulation.

The economy is gradually running down, with prices soaring in gray and black markets, where the exchange rate for the Laotian kip is one-fifth that of the official rate. Even security is poor, a rarity in a police state. Armed Pathet Lao soldiers in baggy green fatigues swagger everywhere through Vientiane and other towns. But the streets are not safe at night, and in the countryside small guerrilla units and bands of thieves make travel dangerous even on main roads.

Laotians, said Prime Minister and party secretary Kayson Phommviharn in June, "prefer to live a miserable life as the masters of their own country . . . than to live a happy life enslaved by foreigners." But even that potential boon has been denied to Laotians.

American influence is gone but it has been replaced by the Russians and, above all, by the ever-present North Vietnamese, whose 30,000 troops still hold large areas of the country. Laotians are being told they "must understand" the difficulties. There is no doubt that they do, now that they have seen the worth of the Communists' promises.



INTERNATIONAL
SECURITY AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

21 OCT 1976
In reply refer to:
1-11197/76

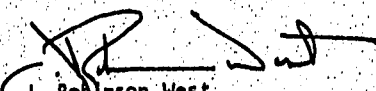
Honorable G. V. Montgomery
House of Representatives
Washington, D. C. 20515

Dear Mr. Montgomery:

Following the review of Mr. Richard Mielke's testimony to the House Select Committee on Missing Persons in Southeast Asia on September 21, 1976, Colonel John Farnham supplied information which should clarify the extent of his participation in the field recovery activities of the Joint Casualty Resolution Center.

At attachment 1 are Colonel Farnham's comments for entry into the Congressional Record.

Sincerely,


J. Robinson West
Deputy Assistant Secretary

1 Attachment
a/s



RCJ2

UNITED STATES READINESS COMMAND
MACDILL AIR FORCE BASE, FLORIDA, 33608
Office of the Director of Intelligence, J2

7 October 1976

THRU: Office of the Assistant Secretary of Defense
(International Security Affairs) PW/MIA Affairs
The Pentagon
Washington, DC 20301

TO: Honorable G. V. Montgomery
Chairman
U.S. House of Representatives Select Committee on
Missing Persons in South East Asia
House Office Annex #2
Washington, DC 20515

1. I have reviewed that portion of the testimony of Mr. Richard Mielke, presented to the Select Committee on Missing Persons in South East Asia on 21 September 1976, which on pages 68-69 purportedly described my participation in the Joint Casualty Recovery Center (JCRC) field operations of 15 December 1973, in the vicinity of Saigon, Republic of Vietnam.

2. Mr. Mielke testified in essence that on 15 December 1973, subsequent to a Viet Cong ambush that resulted in the deaths of Captain Rees, U.S. Army, and an ARVN officer, plus the wounding of several American and Vietnamese personnel, I directed LTC Sully Fontaine, U.S. Army, not to effect the extraction of these killed and wounded personnel because I did not want to risk the loss of "another" helicopter. By his statement, Mr. Mielke has inferred that I was the Operational Field Commander during this incident, and directly and physically involved in casualty field operational activities. This is entirely wrong. The facts are as follows:

a. In accordance with JCRC command policy, casualty recovery field operations, such as the one conducted on 15 December 1973, were under the direct operational control of a JCRC Field Team Commander, usually a U.S. Army Special Forces-trained officer. In this particular instance, on 15 December 1973, LTC Sully Fontaine, U.S. Army, was the designated Field Team Commander.

b. As Chief of the JCRC Liaison Office in the Republic of Vietnam, I was the direct and personal representative of the Commander, JCRC,

Readiness Key to Peace

RCJ2

7 October 1976

Honorable G. V. Montgomery

to the U.S. Ambassador, Republic of Vietnam. As such, I was responsible for pre-operational planning, coordination and support activities attendant upon the JCRC mission. Once field recovery operations were initiated, as stated, control thereof evolved upon the Field Team Commander.

c. Accordingly, it was not within my official purview to direct LTC Fontaine regarding the conduct of casualty operations in the field, nor did I attempt to do so on this date, or at any other time.

d. I was not physically present on 15 December 1973 in the area where the Viet Cong ambush occurred. My place of duty on this date was in, or at the vicinity of, the JCRC Liaison Office, situated in the Defense Attache Office, Tan Son Nhut Air Base, Saigon, Republic of Vietnam.

3. I request that the record be amended to show the facts as presented herein. If you deem appropriate, I would be most happy to appear before the Select Committee on Missing Personnel in South East Asia to present this testimony and any other pertinent data of which I am cognizant.

John F. Farnham
JOHN F. FARNHAM

Colonel, USAF

Acting Director of Intelligence, J2

STATE OF FLORIDA)

SS.

COUNTY OF HILLSBOROUGH)

Subscribed and sworn to before me
by John F. Farnham on this 2nd day
of October, A.D., 1976.

Eugene M. Shaw

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUGUST 2, 1978
BONDED THRU GENERAL INSURANCE UNDERWRITERS

[From the Wall Street Journal, Sept. 30, 1971]

MISSING—OR DEAD?—SOME "POW" RELATIVES SAY THEY ARE MISLED BY AMERICAN OFFICIALS

THEY ASSERT U.S. INFLATES TOTAL OF POSSIBLE CAPTIVES, CONTEND MANY ARE DEAD

A Way To Prolong the War?

Four years ago, Mr. and Mrs. Samuel Beecher Jr. of Terre Haute, Ind., received a telegram from the Army:

"... Your son Warrant Officer Quentin R. Beecher has been missing in Vietnam since 11 June 1967. . . ."

Two months later, the Beechers learned from the Army that their son's helicopter had run afoul of violent thunderstorms, become hopelessly lost, run out of fuel and gone down, not over a battlefield or an enemy sanctuary, but 18 to 25 miles out in the South China Sea. There wasn't any water-survival gear aboard. An extensive two-day rescue effort turned up nothing.

"It took us two torturous years, but we finally confronted reality," Mrs. Beecher says. Her husband, an attorney and a licensed pilot, adds, "I've crashed that helicopter a thousand times in my mind, and under those conditions there isn't any way Quentin could have made it."

Classifying the Missing

But the Army won't drop Quentin Beecher from the list of 1,610 servicemen missing in the Indochina conflict—a list that U.S. government officials prefer to call the Vietnam "prisoners of war/missing in action" (POW/MIA). Pointing to men who were declared dead in World War II and Korea but who later turned up alive, the Army, as well as the other military services, rules a Vietnam combatant missing and keeps him that way unless his body is discovered or an eyewitness is

found. Because the laws of various states won't allow the wife of a missing man to remarry, Mr. Beecher had to arrange a Mexican divorce for his daughter-in-law.

The case of Quentin Beecher and his anguished parents typifies a development unheard of in previous U.S. wars. For as interviews with 70 other parents and wives in places like Virginia Beach, Va., Colorado Springs, Colo., and suburban Portland, Ore., show, a growing number of families of the missing contend that the military should have mercifully declared their loved ones dead long ago. And some also accuse the federal government of coldly stringing them along for selfish political reasons.

"I think they're misleading us for their own purposes," Mrs. Beecher says.

These parents and wives are aware of the problems of ever finding out what happened to crews of aircraft that explode in midair, to pilots of jets that never pull out of power dives and to infantrymen who just disappear in ominous jungles. Thus, these relatives concede that no man should be written off as dead when there is reasonable hope of finding him. But these families shake their heads in disbelief at U.S. policy, which was laid down in a June 1970 statement from the Defense Department. It said in part that "what we want from the enemy is a . . . full accounting of all who are missing."

A Ploy for Negotiations?

Some wives and parents go further. They believe that top-level U.S. policy makers are being deliberately misleading when they denounce the North Vietnamese as liars because the Hanoi officials say they can't produce an accounting of anything like 1,600 men. (North Vietnam has produced a list of 339 men it says have been captured.) These wives and parents suspect that Washington's demand for the accounting is just a throwaway bargaining ploy for the Vietnam negotiations in Paris.

Many of these feelings surfaced earlier this week during a Washington meeting of the National League of Families of American Prisoners and Missing in Southeast Asia, the largest organization of its kind. Dissidents within the league picketed the White House and groaned over the remarks of at least one administration spokesman. They aimed a resolution at President Nixon that said the league "conveys to you . . . its extreme distress at the continuing failure to resolve the prisoner-of-war-missing-in-action tragedy."

Many families, however, do believe the government is doing the best job possible under difficult circumstances. Mrs. John K. Hardy, Jr., wife of an Air Force officer shot down over North Vietnam, says she has had several meetings with presidential adviser Henry Kissinger and feels that "President Nixon can do something about the situation, he's the only one who can."

Clinging to Hope

And as might be expected, many families cling to the hope, however faint, that Hanoi can account for their missing relative, that most of the 1,610 might in fact be alive. Mrs. Edward Beck, for instance, says she feels that her son, a Marine PFC who disappeared in South Vietnam, is a prisoner of the North. Producing a photo of prisoners in the North, she points to a man with his back to the camera and says she is convinced that he is her son. Other families, however, reportedly have identified this same man as their husband or son.

Such feelings often stem in part from the natural refusal to accept the death of a loved one, and in part from the vagueness of circumstances surrounding a man's disappearance. Whatever their basis, these intensely personal feelings have captured the imagination of official Washington.

The Pentagon concedes that as far as hard evidence goes, only 463 of the men on the list are thought to have been captured—378 of them in North Vietnam, 82 in South Vietnam and three in Laos. Nonetheless, a figure of about 1,600 has been used by administration officials and members of Congress.

At a March 4 news conference, President Nixon said that "there are 1,600 Americans in North Vietnamese jails under very difficult circumstances at the present time." (The White House subsequently said the figure used by Mr. Nixon referred to both those who are prisoners and those who are missing in action.)

The next month Defense Secretary Melvin Laird told crowds at the opening game of the major-league baseball season that "there are a great many men in uniform, some 1,600 of them who have not seen a ball game in a long time."

Last year, while telling a House subcommittee of his plans for a POW rally, Sen. Robert Dole of Kansas, chairman of the Republican National Committee, assured Congressmen that "we have not forgotten that there are almost 1,500 Americans who have been prisoners and who have been in danger not for two days, not for three days or four days."

The Senator's guess on the number of American GI prisoners was remarkably close to that contained in a concurrent Congressional resolution passed about the same time; it urged that "every possible effort" be made to obtain the release of prisoners. Part of its preamble stated that "1,500 American servicemen are imprisoned by Communist forces in Southeast Asia."

Pressure on the Other Side

Asked for comment yesterday, White House Press Secretary Ronald L. Ziegler said: "In all of our fact sheets and virtually all of our statements, we break down the numbers between captured and missing." He added that "only on several occasions has the figure 1,600 been used, and then it was clearly stated that this referred to missing and captured." It is important, the press secretary said, "to apply the pressure to the other side—not here—to give the facts about the prisoners."

In February 1970, almost eight months after the Nixon administration took the wraps off the POW/MIA list, a public poll was conducted by Gallup International for Dallas computer magnate H. Ross Perot's POW group, United We Stand. It is said 60% of those questioned had heard of the prisoner issue; of those, more than one-third estimated the number of prisoners at more than 2,000—higher than the politicians' top estimates.

Regardless of the actual number, the hopes of some families that their missing sons or husbands are still alive have been put to a severe test. Consider the case of Mrs. John Swanson, wife of an Air Force captain shot down four years ago while on a bombing mission over North Vietnam. (Like many other relatives of missing men, she has asked that her home town not be given to avoid nuisance telephone calls and mail.)

Several days after the crash, she received a letter from her husband's wing commander. It said that after Capt. Swanson's jet was hit by antiaircraft fire, he had headed for the sea, finally going down two miles off the coast of North Vietnam. "Although a good chute was sighted all the way to impact with the water," the letter said, "search and rescue personnel who arrived within 10 minutes were unable to rescue John."

Two months later, Mrs. Swanson received another letter, this time from the chief of the Air Force casualty section. Recounting earlier details, this letter said, "His ejection, fully deployed parachute and descent were observed by the pilot who had followed him."

What the Air Force didn't tell Mrs. Swanson she later found out from the pilot who had seen the chute. "He said it was very indefinite that my husband was even in that chute," Mrs. Swanson recalls. "He was very discouraging."

Raising Hopes

But her hopes were raised almost two years later by yet another letter from the Air Force. This one said: "Intelligence information just received at this headquarters indicates that your husband may be a captive of the North Vietnamese. Unfortunately the content of the information is extremely limited, and we are not absolutely certain of its reliability. . . . I cannot say anything more so as not to jeopardize the source."

Excited by the letter, Mrs. Swanson says she tried to elicit more information from the military. "They were close-mouthed about it, to say the least," she reports.

Confused, Mrs. Swanson turned to her only nonofficial source, the pilot who had followed her husband's plane out to sea. "I explained that I had received this letter," she says, "but he said that didn't alter the picture, that the odds aren't that good."

While many of those among families of the missing accuse the federal government merely of badly handling the POW situation, a sizable number bitterly charge Washington with deliberately exploiting the bereaved for selfish political reasons.

One of those is Mrs. Louis Jones, whose husband was lost over Laos and whose brother was listed as missing and who never returned from Korea. She insists that families of the missing are being misled to believe that maintenance of a residual U.S. force in Vietnam is the only way to get an accounting of the missing.

"They tell us we can't trust the Communists, that we must keep a residual force in Vietnam until they account for the missing. Well, I wish my husband were held by the Australians. But he's not. If he's alive, he's held by the Communists, and these are the people we must deal with. If there were any living POWs who weren't allowed to return from Korea, it was probably because we still have a residual force there today."

Mrs. Jones adds that she isn't convinced living POWs were abandoned in Korea. But she also asserts that talk of a residual force for the sake of the missing is the administration's way of placating families, "of keeping us quiet."

Another is Mrs. Randolph Ford, whose husband, a Navy pilot, went down over North Vietnam in 1968 and who voted that same year for President Nixon. The Pentagon lists her husband as a prisoner, but Hanoi doesn't. "It shook me up when the administration made it appear we were there (in Vietnam) because of the POWs," she says angrily. "This is a bunch of bull. I resent using the POWs as an excuse to stay in Vietnam. Washington is just trying to save face."

Asserts Mrs. James Warner, whose son is a known prisoner and who headed the National League of Families in Michigan until she "resigned in disgust": "We've been used to drum up war sentiment."

Pessimism by the Experts

Experts tend to be pessimistic about the chances of ever unraveling the fate of most of the missing. Bodies of those who have died in damp jungle areas are quick to decompose. Veteran fliers say that in cases of high-speed crashes, only a trained pathologist can possibly tell if human remains are in the wreckage.

And the experts are equally pessimistic about survival chances of those who were lost, alive, on the ground. Marine Lt. Col. Pat Caruthers, who heads up the corps' rugged survival-training program, describes what it is like for a man lost in Vietnam.

"It depends on the terrain," he says. "If you're in elephant grass, it cuts your uniform to ribbons, and you usually don't have any medicine to stop the infection. If you're in the mountains, you've got rocks and bramble bush and just rough ground to put up with."

The colonel says that in any lowland area rain becomes a problem: "Everything is under water, your feet look like prunes, any orifice or opening in the body becomes a problem, you get blood leeches which you can pick off all day, but all you do is open sores."

"If a man's not found within 10 days," the colonel concludes dryly, "he's got a real personal problem."

Late last year, Hanoi released a list of 339 men it identified as "pilots captured" in North Vietnam, along with a list of 20 GI's who, it said, had died of wounds or disease. The Vietcong have yet to release a list, but a spokesman told reporters in Paris this summer that a list of American prisoners held in South Vietnam would be released on the same date the U.S. begins a total withdrawal of troops from Southeast Asia. The Vietcong spokesman, Madame Nguyen Thi Binh, also said release of prisoners in both the North and the South would begin on that same date.

The Pathet Lao, a Hanoi ally not represented at the Paris peace talks, indicate only that they will "discuss prisoners when the U.S. pulls out of Laos." (Mrs. Stephen Hanson, whose husband, a Marine captain, was seen alive on the ground after his helicopter was shot down over Laos, says a high-ranking U.S. diplomat confided to her that there were "70 or 80" U.S. prisoners in Laos, State Department officials, however, say intelligence sources indicate the possibility of "around 30 men, and that's low-level stuff—things like reports of Caucasians spotted on the Ho Chi Minh Trail.")

Most families don't accept the Communist lists. But some are beginning to take those figures more seriously. "I can't see how the North Vietnamese can say somebody is dead or was never captured and then turn him up after the war," says Mrs. Billie Cartwright, wife of a Navy pilot missing over North Vietnam.

Communist Readiness?

About midyear, former Defense Secretary Clark Clifford, among others, began suggesting that the Communists were ready to deal: a list of all prisoners held in the South and their phased release to match a date for phased withdrawal of U.S. forces.

Since such suggestions became public, some families of the missing are complaining that the Nixon administration is changing its stand on the POW/MIA question. Mrs. William Mullen, wife of a Marine captain missing in Laos, recalls remarks by Defense Secretary Laird that apparently expressed U.S. policy last spring. At that time he told reporters: "We are willing to take every American out of Vietnam providing that (POW) question is settled."

Mrs. Mullen contrasts that stand with more recent comments by Press Secretary Ziegler. He said that a deal tied simply to the prisoners would impose "a deadline so precipitous that it wouldn't give the South Vietnamese the opportunity to defend themselves and determine their own future."

She also refers to Sen. Dole's statement this summer to CBS television reporter Bob Schieffer: "We have to be very candid about it. We don't want to stay there just for the prisoners, we don't want to get out just for the prisoners. They're very important, but they represent less than one half of one percent of the Americans who've died in Vietnam."

Referring to the U.S. officials, Mrs. Mullen observes: "They want to maintain their license to continue the war."

[From the Washington Post, Apr. 5, 1973]

THE HORROR OF POW LIFE—DEATH BY STARVATION

(By Ken Ringle)

Vietcong guerrillas guarding American prisoners of war made a show of eating the same food as their captives, according to an Army doctor held captive, but actually had access to protein sources that made the difference between starvation and survival.

Maj. F. Harold Kushner of Danville, Va., who told Tuesday of hovering for three years between life and death in a disease- and filth-ridden POW camp in South Vietnam, said the guards ate chickens and eggs while allowing prisoners only three cups of rotten, vermin-ridden rice per day.

"I only have an empirical observation," Kushner said when asked to compare the prisoners' diet and living condition with that of their captors. "None of them (the Vietcong) died."

Ten of 27 American prisoners died during his 5½ years of captivity, their bodies wasted by starvation, malnutrition and disease, said Kushner. During that time, he said, the Vietcong "didn't lose weight," and for the most part, didn't get sick.

"Of course they were more accustomed to that diet," Kushner told his hospital news conference in Phoenixville, Pa.

But he said the starvation was not confined to Americans. In May of 1969, he said, five West German nurses—two men and three women—were captured by the Vietcong and brought to his camp in the mountains of western Quangnam province in the Central Highlands. Three of them, including two of the women, were dead within two months.

By that time, Kushner said, conditions in the camp had improved so much that the prisoners were getting one can of sardines per month to split among them.

The previous fall, he said, "we had been deprived of protein for a long time" and three Americans died in a single week.

"We were very sick. We were very desperate." That desperation, he said, led to a decision to kill and eat a three-pound cat that belonged to the camp commander.

"So several of us got the cat, killed it and dressed it out. But we were apprehended in the process."

"I thought we were going to be executed. They were really mad." Kushner said he was bound with wire and beaten for about an hour and a half.

"Then this dressed-out cat was shoved into my face. And thought they were going to make me eat that cat raw. And I was rejoicing. I was hoping they would."

"But no such circumstance transpired. . . . They just made us bury the cat." The other prisoner, he said, was knocked down, "kicked in the face, stamped in the face, kicked in the genitals" and reduced to a "cringing" mass "squealing like a pig."

He, too, was tightly bound with wire and his arms jerked up behind him almost out of their sockets, Kushner said. Two weeks later he was dead.

Kushner told the story, he said, "just to let you know the desperation of the American prisoners of war" and in response to a question about whether he had been tortured.

"It depends on how you define torture," he said. "Certainly pain and suffering was inflicted on us. But mental pressure was much worse than physical pain.

"Because physical pain, if any of you have ever endured it, there comes a time when you stop feeling that. Mental pressure is worse. Much worse."

Kushner, who was captured near Quangnam in November, 1967, was marched up the Ho Chi Minh trail through Laos to Hanoi in 1971, where, he said bitterly, he found conditions "splendid" compared to those in the South.

"When I arrived in North Vietnam I was a broken man. Completely crushed," he said. "It took me about six months before I could come to grips with problems other than survival."

"I used to tell our people when I got a new prisoner in the (Quangnam) camp," Kushner said, "that there were three rules to staying alive:

"The first rule was to eat all the chow you can get your hands on . . . all your rice . . . all your manyok (a fibrous root like a potato) . . . all the rats and the snakes and the frogs and the things we'd kill . . .

"The second rule was to keep clean . . . take a bath every day"—even when shaking from malaria and dysentery—in the cold mountain stream that flowed through the camp.

"The third rule was to keep physically and mentally active."

Asked how the Army had prepared him for the eventuality of being captured in Vietnam, Kushner said wryly that the training consisted of about an hour's lecture from a medical corps officer who was also a lawyer.

"He told us about the Geneva Convention . . ." the young doctor said. "He said, 'As a doctor, you will be expected to take care of your people . . . You are not a prisoner of war but a detained personnel. And he said if the enemy doesn't allow you to fulfill that function you just leave.'"

THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

18 FEB 1971

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

CHAIRMAN, JOINT CHIEFS OF STAFF
ASSISTANT SECRETARY OF DEFENSE (A)
ASSISTANT SECRETARY OF DEFENSE (ISA)
ASSISTANT SECRETARY OF DEFENSE (M&RA)
ASSISTANT SECRETARY OF DEFENSE (PA)
GENERAL COUNSEL
ASSISTANT TO THE SECRETARY OF DEFENSE (LA)
DIRECTOR, DEFENSE INTELLIGENCE AGENCY

SUBJECT: Establishment of Prisoner of War/Missing in Action
(PW/MIA) Task Group

The extended duration of the conflict in Southeast Asia and the enemy's refusal to comply with reasonable standards of treatment of our men who are missing or captured and their families have created a situation of increasing concern to the United States. Also, worldwide interest has been aroused in the plight of these men and their families.

I continue to attach the highest resolve to a satisfactory and an early solution to the problem of our missing and captured men. Our goal remains the release of all prisoners of war in Southeast Asia and the complete and official accounting for all those missing in action, or who have died in captivity.

We must be reassured that our continued planning includes the consideration of every reasonable alternative. Our actions must be innovative, varied, and persistent. Our efforts must be designed to maximize the possibility of enemy response beneficial to our men and their families.

We have achieved a great deal since we initiated public discussion of the PW question in May 1969, but an extra effort is required. To prepare for that extra effort, I want to strengthen staff assistance and guidance available in the Department.

I believe that we can benefit from our experience in organizing similar efforts in other areas such as Vietnamization. In those cases, the formation of Task Groups and augmented staffs as Task Forces has proven to be most successful.

Therefore, I consider it useful to create a similar organizational structure. To this end, I would like to have a Prisoner of War/Missing in Action Task Group and Task Force formed under the Assistant Secretary of Defense (International Security Affairs).

The DOD PW Policy Committee will continue to assist the Assistant Secretary of Defense (ISA) in providing direction and broad policy determinations for Task Group activities.

The primary function of the Task Group will be to provide close and continuing coordination of all activities in DOD in the PW/MIA area. In accord with policy guidance, it will ensure that responsible offices and agencies work together in planning, programming, assessing, and carrying out all required actions.

The Task Force will serve as staff to the Task Group and to the Assistant Secretary of Defense (ISA) in fulfillment of their respective responsibilities. The Assistant Secretary of Defense (ISA) will determine manpower and office space needs to staff this Task Force adequately. The Assistant Secretary of Defense (Administration) will assist in obtaining the requested resources.

I would appreciate it if all addressees of this memorandum (with the exclusion of the Assistant Secretary of Defense (A)) would assign appropriate representatives to the DOD PW Policy Committee and the Prisoner of War/Missing in Action Task Group, in accordance with guidelines established by and upon request of the ASD(ISA). I shall arrange with the Assistant Secretary of Defense (ISA) for appropriate reports.

Signed
MELVIN R. LAIRD



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

15 FEB 1971

In reply refer to:
I-4850/71

INTERNATIONAL SECURITY AFFAIRS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN, JOINT CHIEFS OF STAFF
ASSISTANT TO THE SECRETARY OF DEFENSE (LA)
ASSISTANT SECRETARY OF DEFENSE (M&RA)
ASSISTANT SECRETARY OF DEFENSE (PA)
GENERAL COUNSEL
DIRECTOR, DEFENSE INTELLIGENCE AGENCY

SUBJECT: DOD PW/MIA Task Group/Task Force/PW Policy Committee

By memorandum dated 13 February 1971 Secretary Laird directed the establishment of a Prisoner of War/Missing in Action Task Group and Task Force under the Assistant Secretary of Defense (International Security Affairs). This action was initiated to strengthen the Staff assistance and guidance available in the Department and reflects the Secretary's continued attachment of the highest resolve to a satisfactory solution to the problem of our missing and captured men. In addition to the PW/MIA Task Group and Task Force efforts, the DOD PW Policy Committee established by Deputy Secretary of Defense Memorandum dated 26 July 1967 will continue to function in providing direction and broad policy guidance to the DOD Prisoner of War/Missing in Action program.

The DOD PW Policy Committee will consider major policy matters relating to all aspects of PW/MIA Affairs. The Chairman of this Committee is the Assistant Secretary of Defense (ISA) who is assigned primary staff responsibility for the Department of Defense PW/MIA program. He exercises overall supervision within the DOD for the totality of the program and is responsible directly to the Secretary of Defense to recommend policy plans, major programs/actions, and to keep him advised on significant issues. The DOD PW Policy Committee serves to advise and assist the Chairman in his responsibilities. This Committee consists of the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Assistant Secretary of Defense (Manpower and Reserve Affairs), the Assistant Secretary of Defense (Public Affairs), the General Counsel, the Assistant to the Secretary of Defense (Legislative Affairs), and the Director, Defense Intelligence Agency or designees of the foregoing who

can speak authoritatively for their principals. Committee meetings will be limited to principals or their designees and will meet upon the call of the Chairman.

The PW/MIA Task Group will be organized under the overall direction of the Assistant Secretary of Defense (ISA). It will serve as an augmented staff to consider all issues which will be brought before the DOD PW Policy Committee and will take action on routine matters not requiring consideration by the Policy Committee. The Task Group will serve as the coordinating body for all DOD PW/MIA matters and will function to:

- provide close and continuing coordination of all DOD PW/MIA activities.
- recommend policy
- direct requirements for planning, programming, studies and courses of action
- ensure integrated DOD action by all Departments/offices.

Dr. Roger E. Shields, Assistant to the Assistant Secretary of Defense (ISA) is assigned as Chairman of the PW/MIA Task Group with responsibility for managing its activities. Rear Admiral H. H. Epes, Jr., USN, is designated Alternate Task Group Chairman and Director of the PW/MIA Task Force. The Task Force consists of an assigned staff within the Office of the Assistant Secretary of Defense (ISA). This staff assists the Assistant Secretary of Defense (ISA) in his responsibility for the overall DOD PW/MIA program and will provide staff support for the DOD PW Policy Committee and the PW/MIA Task Group.

PW/MIA Task Group membership will include representation at the Flag/General Office level from each action addressee. Representatives will be expected to speak authoritatively for their principals and should have the authority to commit staff assistance for study/working groups to address specific problem areas.

Action addressees are requested to designate representatives for both the DOD PW Policy Committee and the PW/MIA Task Group as indicated above, and advise this office of their names.

The first meeting of the PW/MIA Task Group will be held on 22 April 1971 at 1600 hours in Pentagon Room 1E801. Organization and Functions will be the Agenda item for this meeting.

R. E. Shields



DEFENSE INTELLIGENCE AGENCY
WASHINGTON, D.C. 20301

U.S. PWs IN CAMBODIA

A total of 77 U.S. military and civilian prisoners were confined for some period of time in Cambodia. However, less than one third (22) of this total spent all of their confinement time from capture to release in Cambodia. The capturing forces involved in all 77 cases were the army of former Cambodian leader Norodom Sihanouk or the combined armies of the DRV and PRG. No returned U.S. prisoners were captured by the Khmer Communists.

A major political event which affected the confinement and release pattern of the captors with regard to American prisoners in Cambodia was the overthrow of Sihanouk in March 1970. Prior to his fall, Sihanouk's military forces captured a number of Americans involved in operations along the Cambodian border. In each case, the Americans were taken to Phnom Penh immediately after capture. Sihanouk's attitude toward these Americans was such that all were released within five months of capture. While Sihanouk was still Chief of State, the National Liberation Front of South Vietnam, with which Sihanouk's government had good relations, delivered three U.S. PWs to an American peace group in Phnom Penh in an obvious propaganda move. After Sihanouk was forced from power and the new Cambodian government took a more anti-communist stance, the DRV/PRG military forces intensified their operations in Cambodian territory and occupied large portions of eastern and northern Cambodia. The U.S./South Vietnam reaction was to carry out major cross-border operations during May and June of 1970. Americans captured in Cambodia during these operations were captured by DRV/PRG forces, as were all other repatriated Americans captured in Cambodia for the remainder of U.S. military involvement in Southeast Asia.

The detention locations for virtually all of the U.S. PWs captured by the DRV/PRG forces, and held in Cambodia for a time, were in areas of eastern and northeastern Cambodia within 80 kilometers of the South Vietnam border. A previous letter from Dr. Shields to the Select Committee, dated 8 April 1976, provided a more detailed discussion, with graphics, on these detention areas and the Americans held there.

The following table gives a statistical breakdown of the 77 American prisoners in Cambodia:

Enclosure

STATISTICAL SUMMARY OF U.S. PWs IN CAMBODIA

NUMBER OF U.S. PWs RELEASED	COUNTRY OF CAPTURE	COUNTRY(s) OF DETENTION	COUNTRY OF RELEASE	REMARKS
22	Cambodia	Cambodia	Cambodia	Eighteen PWs captured by forces of Sihanouk's government; held in Phnom Penh and released there by Sihanouk within a few months of capture. Four captured after Sihanouk's overthrow by VC/NVA operating in Cambodia; three of the four captured near Svay Rieng in southeastern Cambodia where they were held and released a few months later; the fourth individual captured north of Phnom Penh where he was held and released a few months later.
5	Cambodia	Cambodia	S. Vietnam	All captured by VC/NVA after fall of Sihanouk by VC/NVA operating in Cambodia. While in Cambodia, they were held near Memot and Kratie in eastern Cambodia. All were released at Loc Ninh as part of Operation Homecoming.
5	S. Vietnam	Cambodia	Cambodia	All captured by Sihanouk's army just over border with S. Vietnam. Cambodians won dispute with VC/NVA at capture scene for control of the five men. All were taken to Phnom Penh and released there by Sihanouk within a few months of capture.
23	S. Vietnam	Cambodia	S. Vietnam	All captured by VC/NVA and held in areas to the south and east of Kratie in eastern Cambodia. Twenty-two of them were released at Loc Ninh during Operation Homecoming, and one was released in Tay Ninh Province prior to Operation Homecoming.

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NUMBER OF U.S. PWs RELEASED	COUNTRY OF CAPTURE	COUNTRY(s) OF DETENTION	COUNTRY OF RELEASE	REMARKS
3	S. Vietnam	S. Vietnam	Cambodia	All captured by VC/NVA in the Delta Region of S. Vietnam and held there for several years before taken to Phnom Penh for release while Sihanouk was still in power.
19	S. Vietnam	Cambodia, N. Vietnam	N. Vietnam	All captured by VC/NVA in the Central Highlands and held for a period near the border in northeastern Cambodia before taken to N. Vietnam for detention and subsequent release at Gia Lam Airfield during Operation Homecoming.

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OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

8 OCT 1978

In reply refer to:
I-10803/76

OCT 13 1978

* INTERNATIONAL SECURITY AFFAIRS

Mr. J. Angus MacDonald, Staff Director
United States House of Representatives
Select Committee on Missing Persons in
Southeast Asia
Washington, D. C. 20515

Dear Mr. MacDonald:

This is in response to your inquiry on the declassification process.

Executive Order 11652 became effective on June 1, 1972, and disseminated revised classification procedures applicable to the Executive Branch. This new order replaced Executive Order 10501, and a comparison of these two orders is at attachment 1. Also, at attachment 2 is DoD Directive 5200.1-R containing DoD implementing instructions.

The authority to classify a document is carefully controlled to insure that only information that could affect national security is classified and thus protected.

Declassification requires a meticulous and time-consuming review of each document to determine the advisability and possible consequences of declassification. Logically, only the agency that originally classified the information is authorized to declassify it. Consequently, extensive and time-consuming coordination between agencies and services is required to preclude compromise of information that may remain sensitive. This may include such data as collection techniques, sources, classified weaponry or tactics, and electronic countermeasures. After coordination, all or part of a document may be downgraded and all agencies holding that document must then be identified and provided downgrading instructions. The procedures for declassification are just as restrictive as are those for classification and are designed to protect the national security.

During the war the substance of classified reports pertaining to specific individuals was consistently made available to the families. The Services began a systematic review of classified information concerning the missing after the withdrawal of American forces from Vietnam because of the belief that families are entitled to all information that pertains to their case and to dispel the growing concern by many that information was being withheld from them.

There are, of course, intelligence reports that have never been positively correlated to a specific individual or group of individuals or even had the validity of the reports verified. Some of these reports are maintained in files of some missing men. When a report was received, it was evaluated as to area, time, circumstances, and validity which may have resulted in the determination that it possibly applied to several individuals who were lost under similar circumstances. These reports were then placed in the files of all to whom they could apply in the hope that future information would verify the data and pin it down to a specific individual or group of individuals.

It has been the policy of DoD not to disseminate uncorrelated or unsubstantiated information of very doubtful validity because it would only add to rumors, give false hopes to the families and serve no useful purpose.

It is easy to understand the frustrations of the families who believe that since information is classified, and therefore must be withheld, it could possibly contain some clues as to the fate of their missing men. Unfortunately, this is not the case as the DoD has already provided to the families the substance of all the definitive information that it has, a fact that will be borne out when the tedious declassification effort is completed.

Raymond A. Vohden
RAYMOND A. VOHDEN
Captain USN
Principal Advisor
PW/MIA Affairs

2 Attachments
a/s

A COMPARISON OF EXECUTIVE ORDER 10501 AND EXECUTIVE ORDER 11652

Executive Order 10501 of November 5, 1953, "Safeguarding Official Information in the Interests of the Defense of the United States," as amended by several subsequent Orders, provided the basis for the security classification system of the Executive Branch of the Government until June 1, 1972, on which date Executive Order 11652, "Classification and Declassification of National Security Information and Material," became effective. Executive Orders 10501 and 11652 are dissimilar in many respects though both prescribed that there shall be three categories of classification, namely Top Secret, Secret and Confidential.

The old Order was written in terms of classification of official information which required protection in the interests of national defense while the new Order is written in terms of classification of official information which requires protection in the interest of national defense or foreign relations of the United States, collectively termed "national security."

As compared to the old Order, Executive Order 11652 specifies:

- More restrictive rules for classification of official information.
- That the number of Departments and people who can originally classify information be drastically reduced and that tighter controls over this authority be established. The Department of Defense has reduced its classifiers by 85% since promulgation of E.O. 11652.
- Time tables ranging from 6 to 10 years for the automatic declassification of information as compared with 12 years under Executive Order 10501.
- That documents exempted from the General Declassification Schedule are subject to mandatory review for declassification after a 10 year period whereas the old Order had no such provision.
- Classified information which becomes 30 years old will be automatically declassified unless the head of the originating department at that time determines in writing that its continued protection is warranted and sets a time for declassification. Again, the old Order had no similar provisions.
- Administrative sanctions may be imposed upon those who abuse the security classification system.
- The creation of an Interagency Classification Review Committee to continually monitor the effectiveness of implementation of the Order.

Executive Order 10501, as amended, provided 4 groups of classified information (Group 1, Group 2, Group 3 and Group 4). The first 2 groups did not provide for either automatic downgrading or declassification; the third group provided for automatic downgrading at 12-year intervals but no automatic declassification; and the fourth group provided for automatic downgrading at 3-year intervals and automatic declassification after a total of 12 years. By contrast, Executive Order 11652 specifies that unless declassified earlier by the original classifying authority, classified information, if assigned to a General Declassification Schedule, shall be automatically downgraded at 2-year intervals and automatically declassified after 10, 8 or 6 years respectively for Top Secret, Secret and Confidential information. Only a person with original Top Secret classification authority is empowered to exempt classified information from the aforementioned General Declassification Schedule. As earlier indicated, the number of persons with such authority has been severely limited by the new Executive Order. Further, the nature of classified information which can be exempted from the General Declassification Schedule has been limited to four specific categories by Executive Order 11652. The old Order allowed virtually any subject matter to be excluded from its automatic downgrading and/or declassification provisions.

As written, Executive Order 10501 tended to compel classifiers to exclude certain types of information, such as intelligence, from its automatic downgrading/declassification provisions. Such is not the case under the new Order which allows for exemption of such information but also requires that this be a deliberately considered decision. Under Executive Order 11652 there is no "per se" rule which requires exemption of, for example, intelligence information. There are, of course, certain types of information required by statute such as the Atomic Energy Act of 1954 to be protected for longer periods of time than is prescribed by the General Declassification Schedule.

Department of Defense implementation of Executive Order 11652 is consistent with the provisions of that Order. Executive Order 11652 has been implemented within Defense by a single Regulation, the DoD Information Security Program Regulation, DoD 5200.1-R, and is applicable to all Department of Defense activities without the necessity of further formal issuances by those activities.

In sum, Executive Order 11652 is vastly improved over Executive Order 10501 in that it more readily recognizes the right of the citizenry to be informed with respect to the affairs of its Government while at the same time provides for the confidentiality necessary to some operations of the Government. The goals of Executive Order 11652 can be briefly stated - to classify less, to declassify more and earlier, and to better protect that information which truly requires protection in the interests of national security.

SURVIVOR ASSISTANCE OFFICER AND FAMILY SERVICES AND ASSISTANCE OFFICER HANDBOOK

HEADQUARTERS, DEPARTMENT OF THE ARMY

AUGUST 1971

FOREWORD

This pamphlet is designed for use by a Survivor Assistance Officer (SAO) or Family Services and Assistance Officer (FSAO) in the performance of his duties as he assists the next of kin of a deceased or missing/captured active Army member. It is designed for use in conjunction with DA Pam 608-4, "For Your Guidance." Users of this pamphlet are encouraged to submit recommended changes and suggested improvements to improve the publication. Comments should be keyed to the specific page, paragraph, and line of the text in which the change is recommended. Reasons will be provided for each comment to insure understanding and complete evaluation. Comments should be prepared using DA Form 2028 (Recommended Changes to Publications) and forwarded direct to The Adjutant General, ATTN: AGPC-R, Headquarters, Department of the Army, Washington, D. C. 20314.

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D. C., 11 August 1971

**SURVIVOR ASSISTANCE OFFICER
AND
FAMILY SERVICES AND ASSISTANCE OFFICER
HANDBOOK**

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**SECTION I
ASSISTANCE TO THE NEXT OF KIN OF DECEASED ACTIVE
DUTY PERSONNEL**

1. General. a. The fact that you are reading this pamphlet probably means you have been, or are about to be, appointed a Survivor Assistance Officer (SAO) to the next of kin of a deceased active duty member of the Army. Yours will not be an easy task. It will probably be one of the most difficult, exacting, and exasperating duties you will ever face. It will be an additional duty, for sure, but your performance must at all times reflect in the mind of the next of kin that it is your sole duty!

b. You are charged by the Secretary of the Army to render whatever assistance is necessary, within the bounds of reason, to settle the personal affairs of a deceased member. The quality of service which you render not only will reflect upon the Army and you but, more importantly, it will lessen, insofar as possible, the emotional and financial strain borne by a next of kin during a period of great trauma. You must accept and pursue your assignment with a keen sense of urgency; take pride in your conduct, appearance, and service rendered; and keep the thoughts, feelings, and position of the next of kin uppermost in your mind, but not at the expense of siding with them against the Army.

2. Where Do You Fit In As An SAO? a. Although you are the Secretary of the Army's personal representative to the next of kin, you are appointed by a local Army commander in whom overall responsibility for a successful assistance program is vested. All of his resources, and the resources of his staff, are available to you in the resolution of any problem or situation. You need only seek them out.

b. Your principal point of contact (and source of information and assistance) will be the Casualty Section, a subordinate element of the Adjutant's or Adjutant General's office. However, this certainly doesn't preclude you dealing directly with other staff agencies such as the Staff Judge Advocate, Surgeon, Provost Marshal, Information Officer, Finance Officer, Housing Officer, or Transportation Officer. In fact, you will be expected to make such contacts, when necessary, without prior referral by the Casualty Section.

c. Now, in the unlikely event that you don't know which way to turn in dealing with a particular situation, the Casualty Section will be able to "point you in the right direction." But that's all they will do. In the final analysis, the Casualty Section serves in an advisory capacity primarily, and you must do whatever needs to be done. Don't wait for them to do it for you. If it was intended for them to do it in the first place, there would have been little need for appointing you as the SAO. However, you should not deal personally with any agency or command lateral or superior to the commander for whom you are an appointed SAO. Such dealings must, of necessity, be by the Casualty Section.

3. Events Leading Up To Your Initial Contact With The Next of Kin. Somewhere an Army member died or was killed, and a designated Army commander submitted a report of casualty by electrical message to the Chief, Casualty Division, The Adjutant General's Office (TAGO), DA, in Washington, D. C. The commander to whom you are responsible as an SAO was instructed to notify the next of kin

who resided within his geographical area of responsibility. An officer (quite possibly yourself) or a senior noncommissioned officer visited the next of kin between the hours of 0600 and 2200, related the sad news concerning the demise of a loved one, and extended the sympathy and condolence of the Secretary of the Army. He told the next of kin that another Army representative would call within twenty-four hours. A Western Union telegram was dispatched to the next of kin, confirming the personal notification, and if the next of kin is a spouse, a message was dispatched to the local Finance Officer, authorizing him to effect payment of the maximum partial death gratuity to the now-widowed spouse. You were called and alerted as the SAO assigned to the case, and now you must go into action.

4. Phases of SAO Duties. As you become an experienced SAO, you will learn that your duties are divided into two phases: from notification to interment (Phase I), and from interment to approximately ninety days thereafter (Phase II). The nature of the functions within each phase, coupled with the grief and trauma which the next of kin will not yet have been able to overcome fully, makes it imperative that you not rush into functions in Phase II until after the funeral. During Phase I, you are going to be needed almost continuously by the next of kin, and you must always be readily available; therefore, you won't really be able to perform any of the Phase II functions.

5. Preparation for Initial Contact. Immediately after being assigned a case, you must prepare yourself for your initial contact with the next of kin. If you haven't already been furnished the verbatim text of the notification message, get it! It is imperative that you know all the currently known circumstances surrounding the demise of the deceased and in what lan-

guage it was presented to the next of kin. Contact the person who made the personal notification. Besides being able to tell you exactly what he said to the next of kin, he will be able to provide you with valuable information and insight such as reaction, whether the family is hostile, background and station of the next of kin, etc. Armed with this information, you should be better able to cope with the difficult situation of making your initial contact.

6. Initial Contact. a. Within twenty-four hours after the next of kin has been personally notified, you must telephone to make an appointment to visit. While you have twenty-four hours, the next of kin has been told to expect your call, and any delay on your part will only cause unnecessary anxiety. Additionally, an inordinate delay may be construed as an indifferent or insincere attitude on your part to assist.

b. In your call, identify yourself and the fact that you will be assisting during this trying period. Do not say that you have been "appointed" or convey the idea that your assistance is a "chore" or inconvenience to you. Be sincere in expressing your desire to help. Extend your own personal sympathy and condolence. Tactfully address the fact that there are now, or shortly will be, a number of pressing matters which will require the next of kin's personal attention and decision. Offer to meet with the next of kin as soon as possible in her home, or at a place she designates.

c. The importance of this initial telephone contact cannot be over-emphasized. Your courtesy, sincerity, and honesty, coupled with a firm understanding of the situation and ability and knowledge to answer immediately in some way any question (short of "off the top of your head"), will go a long way in establishing the proper rapport needed between you and the next of kin if you are going to do your job satisfactorily. In essence, if you don't "make the grade" here, you will very likely not succeed later.

7. First Visit. a. The initial personal visit with the next of kin will, no doubt, be quite difficult for you. You must not let her know of your distress over this first encounter. She will look to you for strength, and she will expect to find you capable in every manner.

b. As you make the first personal visit, you will encounter the only firm rule of your SAO duties: whenever meeting with the next of kin, you must be in a proper military uniform that is clean and pressed. You must be neat and freshly shaven. There can be no departure from this rule. As the personal representative of the Secretary of the Army, you must always be the epitome of the professional soldier, both in manner and appearance.

c. The first visit should be brief, and you should primarily further establish the necessary rapport with and regard for the next of kin which you hopefully created in your telephone call to her earlier. In the event that a number of people are already present when you arrive, ask whether you might discuss matters in private. There are two reasons for doing this: it will make it a great deal easier for the next of kin, but, more importantly, you eliminate the necessity of dealing with so many people, and you don't find yourself answering questions and meeting demands/requests from anyone other than the next of kin.

d. Reaffirm your sincere desire to assist. In comforting the next of kin, try to give her the courage to realize that despite the tragic loss which she has suffered, she will be able to overcome the adversity of the moment.

e. Do not promise the next of kin anything which you don't personally know you can accomplish.

f. Do not address benefits at this initial visit unless the next of kin specifically asks about them.

g. Tell the next of kin that you will visit with her the following day to begin formulating funeral arrangements. Suggest that she give thought to where she will want the deceased to be buried and what funeral home she will want to use. Alert her to the fact that she will receive a very lengthy telegram which outlines recovery, preparation, and return of remains and entitlements. Tell her to contact you just as soon as that telegram is received,

that you will explain its contents fully, and assist her in answering it.

h. Advise her that she will also receive a telegram that will confirm in writing the death of her loved one.

i. Before terminating the initial visit, ascertain from the next of kin whether she needs any immediate financial assistance. If she does, determine in what amount and for what reason. Relate the entitlement to death gratuity, and further assistance via the Army Emergency Relief, Army Relief Society, or Red Cross. Leave her with the knowledge that you will resolve the immediate financial problems within the next twenty-four hours, if possible.

j. Keep written notes on this and all subsequent visits with the next of kin. They will be invaluable in going back and reviewing what was said or done, thereby insuring that you have answered questions or fulfilled any requests.

k. If you determine that her emotional state will allow it, leave a copy of DA Pam 608-4 (For Your Guidance). Briefly explain that, while she may wish to review it, you will discuss the content of the pamphlet in later meetings.

8. Second Visit. a. The second visit will probably occur on the day following the first visit, and it will be in conjunction with the receipt of the lengthy telegram concerning disposition of remains. While the grief associated with the death of a loved one will still be present, the shock will normally have subsided, and you should find it somewhat easier to deal with the next of kin. You must recognize that it will take only a little thing, whether said, done or observed, to trigger an emotional outburst. This will undoubtedly continue through the day of the funeral, at which time she should revert more closely to her previous emotional state. With this in mind, you should not discuss too many things, too fast. It is best to limit your business to return of remains, preparation for the funeral, death gratuity, and only those specific items about which she inquires.

b. No doubt, the first question she will ask upon your arrival at the second visit will concern the arrival of the remains. This is a cru-

The frame of reference to the next of kin will hereafter be feminine and will more specifically relate to a now-widowed spouse. You must recognize, however, that the next of kin may be parents, father, mother, etc.

cial factor to her, and you must be alert to her concern and answer the question with great care. Normally, remains are returned from an oversea area within five to seven days (three if the death occurred in the United States). Note the emphasis on the word "normally." The next of kin will probably feel this is an inordinate amount of time to return her loved one, and you will have to be extremely tactful in explaining the problems involved. If the remains are coming from the Far East, for example, there is the time differential of almost a day and then nearly an entire day is taken up in the flight across the Pacific Ocean. Upon arrival in the United States at one of two mortuaries (Oakland Army Base, California, if the next of kin resides west of the Mississippi River, and Dover Air Force Base, Delaware, if she resides east of the Mississippi), the remains must be prepared for further shipment to the next of kin. Thereafter, they are shipped to whatever location she designates. Obviously, all of this takes time, but recognize that the next of kin will not normally be that logical or tolerant.

c. At this time and using the telegram received, relate to the next of kin the entitlements regarding preparation and return of the remains, financial reimbursement for incidental burial expenses, and special escort requirements (AR 638-40). To assist her in deciding whether she will bury the deceased in a national or other Government cemetery, you should relate where the nearest facility is. Be careful not to commit the Army to interment in any such cemetery, however, as interment is contingent upon plot space, and only the Superintendent may determine its availability. It would not hurt to have already inquired with the Superintendent, so if the next of kin was seriously considering the facility, you would know whether interment could likely take place there.

d. The alternative of a national cemetery versus a private one, coupled with the selection of a funeral director, if one will be needed, are decisions which the next of kin alone may make. You must be very careful not to influence her decision, and definitely do not recommend one funeral director over another. If she asks for your opinion, tactfully

advise her that, as representative of the Army, you are not in a position to be able to assist her in this matter and that she alone must make the decision. You may, however, present a listing of all reputable funeral homes in the area from which she might wish to choose, but beyond that you should not be instrumental in the selection.

e. Making these decisions will be difficult for her, and she may wish to put them off. You should encourage her to decide as soon as possible as the actual return of remains cannot be effected until the authorities know where to ship the remains. In this regard, you must be forceful, but not in an offensive or pushy manner. It is a delicate matter which will require a great amount of tact, diplomacy, and empathy on your part.

f. Once the next of kin has determined who the funeral director will be and where the deceased will be interred, you should prepare a collect Western Union telegram for transmittal to the agency indicated in the disposition telegram received. Relate the name, address, and telephone number (to include area code) of the funeral director, or the name of the national or other Government cemetery to which the next of kin desires the remains shipped. You may also include the next of kin's request for special escort, if applicable; any other requests which specifically relate to return of remains only; and your name and telephone number (to include area code) as a point of contact if you think that is necessary. Of course, this telegram should not be sent until the Superintendent of the military cemetery has officially concurred in the deceased's interment there and/or the funeral director has agreed to furnish his services.

g. The next decision required of the next of kin is the type of funeral desired: military or civilian, full military honors or simple honors, military or civilian chaplain presiding, etc. Also, she should indicate to what degree she wants you to become involved in making these funeral arrangements. Naturally, you should not make any major decisions without her approval, and you should not commit anyone to anything without first checking to insure it can be done. You should endeavor to keep the costs programmed within the limit of the re-

imbursements which will be received, unless money is not or will not be of concern to the family.

h. If the next of kin is a surviving spouse, you should also address the payment of death gratuity (AR 600-10).

9. Awaiting Arrival of the Remains. You should formulate rough funeral plans, alert appropriate agencies (chaplain, transportation officer, unit that will provide participants, etc), and tentatively outline a sequence of events; but you cannot firm them up until you learn of the arrival date of the remains. On a periodic basis, visit with the next of kin to let her know what you have done and to show her that you have not forgotten her. Check frequently during each day with the funeral director (or superintendent of the cemetery) to ascertain whether he has received word about the arrival of the remains. He will be telephoned within twenty-four hours of the remains' arrival and told of the mode of travel and itinerary. Once this is known, you need to visit with the next of kin and firmly establish the funeral date. Consistent with the time available, you should firm up all your funeral arrangements, keeping the next of kin continuously advised.

10. Meeting the Remains and Escort. a. The funeral director will meet the remains and escort. It would be appropriate on your part to accompany him on this task. Whether the next of kin accompanies you or not is her decision, but from a humanitarian standpoint, it would be best if she did not. Tell her that you will see that her loved one is cared for, and that you will call for her and take her to the funeral home once the remains have been properly prepared by the funeral director. On her initial visit to the funeral home, or other appropriate time, introduce her to the escort.

b. The escort will have the necessary forms for reimbursement of funeral expenses and for requisitioning of a Government headstone. You should take over responsibility for these documents, advising him that, at an appropriate time, you will take them up with the next of kin and complete all actions required. You should also advise the escort whether his pres-

ence at the funeral will be desired. If so, assist him in securing lodging and relate to him exactly what will be desired from him (e.g., being present during the wake, standing in honored silence near the casket during visiting hours, role in the funeral, etc). If the escort's presence is not required, he should be released for return to home station after completing his business with the funeral director. Make every effort in this latter instance to be sure that he has met the next of kin and, if appropriate, makes his farewell.

11. The Funeral. a. The degree of your specific involvement in the funeral will be dependent upon what the next of kin requests of you. In any case, you must attend, for in so doing, you are the personal representative of the Secretary of the Army. You should assist in arranging for military honors, if requested by the next of kin. This includes inspecting, orienting and supervising the burial detail.

b. No matter how well you have planned for the funeral, that day will be hectic. Proper delegation of key tasks (e.g., arranging transportation, pallbearers, firing squad, and bugler; presentation of the flag at the gravesite; etc) will permit you to oversee things in general, lessen the confusion and make your efforts more effective. In lessening the burden of the next of kin, she cannot help but note and appreciate the professional manner in which the funeral was conducted.

c. The funeral, at least, will be a traumatic experience for the next of kin, and you should be alert to her needs. Although you will have gone over the events as they will occur with her, you need to remember that the stress of the moment coupled with her grief will require you to review certain phases or assist her as the situation warrants.

12. Visits After the Funeral. a. Up to this time, you have purposely avoided discussing rights, benefits, or entitlements except where they pertained to the funeral. The purpose behind this was quite simple: the frame of mind of the next of kin was probably in such a condition that little would have been served to have discussed all these matters earlier. Two days after the funeral, you should call the next

of kin and make an appointment to visit with her. To prepare her for this visit, it is wise to relate what you will discuss. Encourage her to review the contents of DA Pam 608-4 (For Your Guidance), which you left with her on a previous visit.

b. Upon your arrival, you should note a marked change in the next of kin's attitude. The grief from the funeral will have subsided, and she will begin to show an interest in what is to come. While she may express some degree of concern over her ability or inability to get along now, your presentation of all her rights, benefits, and entitlements will go a long way to alleviate any fears and will be a source of comfort to her. Telling her about them, however, is only half the mission. You must vigorously follow up on them for her. She must realize that your doing this is only the Army's concern for her well-being.

c. You should personally escort the next of kin to the Veterans Administration and Social Security Administration. Let one of the experts at these two agencies compute just what her monthly entitlements will be. Let these people resolve all the matters related to their particular organization.

d. If the individual is a dependent next of kin, you should escort her to the appropriate identification card issuing facility in order that she might get this valuable document to insure that she can continue to utilize the Post Exchange, commissary and medical treatment facilities just as quickly as possible. It would be wise to make appointments in advance of your arrival; thus, the next of kin doesn't have to wait too long.

e. Present at an appropriate time the Gold Star Lapel Button to the widow or widower, to each of the parents, each child and stepchild; and other eligible relatives.

f. Advise the next of kin of monetary and other benefits and entitlements for which they

should file applications, and help them file those applications. Use local facilities, such as legal assistance or copying equipment in developing and supporting claims for these benefits.

g. It is always difficult to determine just when your duties as an SAO end. Technically, they end when the last application for benefits is taken care of. However, there is a moral obligation to insure that the benefits are received, and in the right amount. A fitting gesture on your part would be to telephone the next of kin during those time frames when you know she will be receiving her first checks. The call will serve to reaffirm with her the Army's interest. In the event the checks in question have not been received, or they are in an amount different from what was anticipated, you should write a letter which the next of kin may sign to the appropriate agency. By having the next of kin sign the letter, and by using her return address, you assist her in resolving the matter, but you don't officially come into the picture as far as the agency with whom she is dealing is concerned. Experience has shown that in dealing with an agency that has a local office, the telephone is quite effective; but if the agency is not in the immediate locale, all actions should be by registered mail.

h. On a continuing basis, the next of kin may require legal aid as related to her husband's service. This is, of course, provided by Army legal assistance officers in the local Staff Judge Advocate's office. If you have not already had a visit with this individual early in your SAO duties to review or formulate the next of kin's legal needs or fulfill any legal requirements, a fitting last action on your part would be to escort her to the Staff Judge Advocate's office to permit a review of her current legal picture.

SECTION II

ASSISTANCE TO THE NEXT OF KIN OF MISSING/CAPTURED

PERSONNEL

13. General. a. If you have been, or are about to be, appointed a Family Services and Assistance Officer (FSAO), yours is definitely not going to be an easy task. Like the Survivor Assistance Officer in a death case, you are the personal representative of the Secretary of the Army, only to the next of kin of a missing or captured Army member. You have been selected because of your maturity, compassion, empathy, and demonstrated ability to communicate effectively. You are charged by the Secretary of the Army to assist the next of kin in every way possible, within the framework of the Army, during the time a loved one is missing or captured. The problems of a next of kin whose loved one is in a missing or captured status will differ greatly from those of someone whose loved one is deceased. There will be despair, restlessness, and anxiety. At other times, there will be understanding, patience, and resignation. One thing which there will never be is finality, and therein lies the crux of your problem: The uncertainty of a loved one's fate, coupled with the endless passage of time, particularly when there is no word, makes the situation almost unbearable for the next of kin. You, as the FSAO, will hopefully alleviate somewhat the burden which the next of kin alone can bear.

b. While "missing" is the term which we will generally use, a missing member may actually be: missing; missing in action; interred in a foreign country; captured, beleaguered, or besieged by a hostile force; or detained in a foreign country against his will.

As an FSAO, you will be dealing principally with missing, missing in action, and captured personnel. These cases fall under the Missing Persons Act and are not "AWOL" cases.

c. While you are, in fact, the Secretary of the Army's personal representative, you are appointed by and responsible to a local Army commander in whom overall responsibility for a successful assistance program is vested. Your principal point of contact is his Casualty Section, which is generally located in the Adjutant's or Adjutant General's office. The resources of the commander's entire staff are available to you, and you should utilize them in fulfilling the requirements of your very important mission.

d. It is suggested that you read the duties of an SAO as covered in Part I for general guidance and concepts.

14. Events Leading Up To Your Initial Contact With a Next of Kin. a. An Army commander has submitted a casualty report by electrical message to the Chief, Casualty Division, The Adjutant General's Office (TAGO), DA, in Washington, D. C. The commander to whom you are responsible as an FSAO was instructed to notify personally the next of kin who resides within his geographical area. An officer or senior noncommissioned officer personally notified the next of kin, told her that another officer would contact her within twenty-four hours, and then reported through channels that the notification was completed. It is at this point, now that you have been advised of your appointment as the FSAO, for you to go into action.

* "Missing" is used to denote a status wherein hostile enemy action is not a cause.

* "Missing in action" means hostile enemy action was a factor leading to the disappearance.

b. Your duties as an FSAO will generally cover six steps or phases, five of which will be on a one-time basis and the sixth will be repetitive on a monthly basis. The one-time phases are keyed to events and are conveniently identified as: initial visit—that which must occur within twenty-four hours after the next of kin was notified of a loved one's missing status; four day visit—that which should occur approximately four days after the initial visit; seven day visit—that which should occur when you receive the lengthy telegram from The Adjutant General, mentioning the missing person's board; thirty day visit—that which should occur after the Army member has been missing for thirty days; and sixty day visit—that which should occur whenever the results of the missing person's board are made available to the next of kin in the rather lengthy letter from The Adjutant General. The repetitive phase is the monthly visit with the next of kin which serves to reaffirm in her mind the fact that the Army has not forgotten her loved one nor her, and to insure that she is getting along as well as may be expected under the circumstances. At any time, though, you should be prepared to notify the next of kin of some change in status, whether it be one of captured, dead, or returned to military control.

c. Like the SAO, you should know exactly what was in the text of the initial notification message to the next of kin. You too should try to talk with the person who made the personal notification, thus eliciting valuable information from him. Armed with whatever you may have learned, telephone the next of kin to make an appointment. This telephone call should be made as soon as possible, but in no event later than twenty-four hours after the next of kin was personally notified of the uncertain fate of a loved one. After identifying yourself, your purpose, etc, make an appointment to visit personally with the next of kin at their convenience.

d. In anticipation of your initial visit, you should telephone your CONUS Army area casualty section to determine if any additional information is available and to amplify what is already available. The text of the notification message is purposely general in language

(i.e., on a military mission when hostile force was encountered; pilot of a military aircraft on a combat operation when contact was lost; etc); however, more specific information is available. The casualty report will state exactly what type of mission the individual was on at the time (e.g., aerial resupply, combat assault, reconnaissance mission, etc) and where the incident occurred. You should get this specific information from them. It will materially aid you if you are to "amplify" what has already been told to the next of kin, thereby establishing the rapport necessary to any successful accomplishment of your FSAO mission.

e. All this highlights the need never to talk on a subject about which you have little knowledge or understanding. When you do not know the answer to something, simply explain this to the next of kin. But then, get the answer from someone who does know. Never answer a question "off the top of your head." Never promise anything unless you are sure it can be fulfilled. Any failure in this area limits you, if it does not destroy your value, as the FSAO to the next of kin.

15. Initial Visit. The initial visit will be extremely difficult for you and the next of kin. It is important that you not display any fear or misgivings. The next of kin will be looking to you for strength, comfort, and action. To provide anything less will destroy your further value as her FSAO.

a. Extend your sympathy. You must be very careful not to be too encouraging, yet you can't afford to be too pessimistic either. Try to maintain objectivity in whatever you do or say.

b. One of the first questions will be about the existence of any additional information. Relate what you may have learned from the CONUS Army area casualty section, being careful to emphasize that this is merely an amplification of that already passed and additional information has not been received. Make it clear that, as additional information is received, you will immediately advise them of it. Impress upon the next of kin that you are the point of contact, that they should take comfort in knowing that the United States Army is doing everything possible to learn of the loved

one's fate, and that they will be kept continuously advised by you.

d. It is vitally important to make the next of kin aware of what must be done now—WAIT! This will be difficult, if not impossible. Patience will be a virtue which will be worn very thin.

e. There is really very little else which you can discuss after you have amplified on the initial report. The next of kin will probably still be in some state of dismay over the tragic news, and will not be in the proper frame of mind "to discuss business." Explain you will again visit within three to four days to discuss entitlements, benefits, and procedures about which the next of kin will need to know. This suggested delay affords the next of kin an opportunity to regain composure, thus making your job easier in explaining what the full impact of missing means and what must be done. Beyond that, specific things should be discussed only in response to inquiries. Leave your office and home telephone numbers and encourage the next of kin "to lean on you" during this very traumatic and uncertain time.

f. During the course of this initial visit, you should determine if the next of kin needs any immediate financial assistance. She probably will not, but in the unlikely event she does, you may explain the services available via the Army Emergency Relief, Army Relief Society, and the American Red Cross.

g. You should keep adequate notes of this and all subsequent visits. In so doing, you will have a journal which will be of invaluable assistance to you or others as the case continues. But a word of caution, record only the most important items in front of the next of kin. Record your impressions and minor things as soon as possible after you have left the home. Do not sit in your car in front of the house and let the family see you do this.

16. Four Day Visit. a. Your second official visit should occur within four days of the first; however, between the two, you should have called the next of kin on a daily basis to assure your continuing interest by relating additional information, if any. Before going on this second visit, you should again call the CONUS Army area casualty section to obtain

latest status. In all likelihood, there will be none, but this checking permits you to speak knowingly.

b. During this second visit you will, no doubt, note that the emotional grief has begun to subside, but the next of kin will still be apprehensive about the uncertainty of the situation. She will express great concern not only for her loved one's well-being, but she will begin to relate doubts and fears about her own welfare and ability to get by. You should be aware of her concerns and be prepared to counter her fears with a smooth, forceful, and comprehensive briefing of what will transpire during the next sixty days.

c. Although she has two concerns—that over her loved one's fate as well as her own position—it is wise to address the former first. Relate to her the existence of a board of officers convened to investigate the circumstances surrounding her loved one's missing status. Carefully outline that this board will interrogate all possible witnesses and examine all available evidence for the sole purpose of making a recommendation. Mindful of the impact this will have on the next of kin, relate the possible recommendations available: continue missing, change status to missing in action or captured by a hostile force, or change status from missing to deceased based upon irrefutable evidence. The next of kin should be made aware that this action takes approximately sixty days.

17. Seven Day Visit. This visit will take place only after you have received the lengthy telegram from The Adjutant General. You must personally deliver this telegram to the next of kin at which time you should again go over the procedures which will be followed by the board, the recommendations it may make, and the final action which will be taken. You must be particularly sympathetic to the needs of the next of kin here, for this telegram will drive home the full realization that a report of death may be rendered. The next of kin will have the agonizing sixty days in which to wait for this important decision.

a. The next of kin's second concern is for her own welfare during the period her loved

one is in a missing status. She will, no doubt, be particularly concerned about her financial status. She should be comforted to learn that, while her loved one is in a missing status, all pay and allowances being earned by him prior to his absence continue to be credited to his account, all allotments remain in effect, and federal income tax relief continues if such relief was in existence. She should be further advised if he specified on his DA Form 41, (Record of Emergency Data), a percentage of his monthly pay entitlement that he wished be paid to her. These allotments are paid by check from the Finance Center, United States Army, until the member is returned to military control or declared deceased. She should be told that provisions exist whereby she may obtain an increase to this allotment upon presentation of satisfactory evidence that her financial status dictates such action. In summary, you should tell the next of kin that financial support will continue, and that this is really the least of her worries. Tell her that you will address this matter with her again after the member has been missing for thirty days as that is the time frame in which the Finance Center will initiate the provisions of payment established by the member.

b. The next of kin should be apprised that she, her household goods and personal effects, and one privately owned vehicle may be moved and relocated once at government expense, provided the member has been missing thirty or more days. (Movement of a house trailer is not permitted nor is payment of trailer allowances.) Packing, unpacking, and storage is included in this authority. This is a particularly valuable benefit in that it provides a special and often needed opportunity for the wife to move to an area in which relatives or close friends are located. In the event she expresses an intent to move, you should schedule a visit for her with the Post Transportation Officer.

c. Dependent next of kin should be told that they are entitled to the same medical care as they were entitled to before the individual

became missing. Also, civilian medical care under the provisions of the CHAMPUS program are applicable to dependent wives and children. Dental care and consultant services are available only if local facilities allow, and there is no basis for next of kin of a missing member to received preferred dental care over other families.

d. Legal assistance is available to dependent next of kin through the Staff Judge Advocate and consists of such services as estate planning, income tax guidance, powers of attorney, wills, property damage/loss claims, matters involving the Soldiers' and Sailors' Civil Relief Act, and naturalization and citizenship. Should the next of kin need this service, you should arrange an appointment.

e. Finally, you should accompany the next of kin to the local offices of the Veterans Administration and Social Security Administration. These agencies have experts who will explain the entitlements and benefits which may accrue to a dependent while the loved one is in a missing status.

18. Thirty Day Visit. The sole purpose of this visit is to review the financial status of the next of kin, to determine whether the first check from the Finance Center has been received, and to assist in applying for a change in allotment authorization if the situation warrants.

19. Sixty Day Visit. a. The sixty day visit is extremely significant to the next of kin, for it may mean her loved one will be retained in a missing status rather than declared dead. Her reaction to this important decision will most likely be relief and hope: relief, due to the passage of an important milestone for which waiting was almost unbearable; and hope, because the missing person's board could not uncover sufficient, irrefutable evidence to support a contention that the member is deceased. The visit is significant to you as an FSAO, too, for it means you will be providing assistance to her for an indefinite period.

b. Your visit after some sixty days from the date the member was initially reported missing will be precipitated by the receipt of a letter from The Adjutant General which you must personally deliver to the next of kin. This letter will review the entire circumstances leading up to the member's disappearance, summarize the missing person's board proceedings, and officially relate the status (missing, missing in action, or captured) in which the member will be regarded by Department of the Army. The letter will go on to say that the member's status is subject to review whenever additional information is uncovered; or, in the event none is uncovered, it will be mandatorily reviewed after one year. In the event there is evidence which would reasonably support the supposition that the member could not still be alive, a presumptive finding of death may be rendered at that time.

20. Monthly Visits. Following the sixty day visit, you should visit the next of kin monthly. Your visit will supplement the monthly letter which she will receive from The Adjutant General. Both are designed to reaffirm the Army's interest in the next of kin's well-being, and to relate the latest information concerning missing and captured personnel actions which may be of interest. Whether you personally visit the next of kin or just telephone will be up to her. In any case, you should periodically telephone her, just to afford her the opportunity to "chat." Also, if at any time you need information from DA Casualty Division to reply to next of kin's questions, you may telephone directly without going through normal channels. Information received, however, must be provided to your Casualty Section and/or Army headquarters after it is received.

* A missing person's board is normally received in Casualty Division, DA, within sixty days of the date on which the member disappeared; however, it could be received later so the next of kin should be advised accordingly.

Pam 608-33

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DEPARTMENT OF THE ARMY PAMPHLET

No. 608-34

HANDBOOK FOR NEXT OF KIN OF ARMY PRISONERS OF WAR / MISSING PERSONNEL

PAMPHLET }
No. 608-34 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 21 January 1972

**HANDBOOK FOR NEXT OF KIN
OF ARMY
PRISONERS OF WAR/MISSING PERSONNEL**

This pamphlet is designed to provide important information in limited detail to the next of kin of missing and captured members in order to promote a better understanding of Department of the Army policies and procedures. The proponent agency for this pamphlet is The Adjutant General's Office, ATTN: DAAG-PSC-S, Department of the Army, Washington DC 20314.

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Section I. GENERAL INFORMATION

1. Introduction. *a.* As a family member of a missing or captured Army serviceman, you are now going through a most trying and difficult time. Initial shock is followed by anxiety, a feeling of helplessness, and an overwhelming desire to "do something." Your frustrations will mount as the first few days or weeks pass and there is no detailed information about your loved one. We in the Army share your concern and you may be assured that when the facts surrounding the incident reach the Department of the Army Casualty Division in Washington, DC, those facts will be given to you without delay. You must understand, however, that a complete and detailed report will not be available for approximately 60 days.

b. The purpose of this pamphlet is to answer as many as possible of the general questions you may have. We urge you to read it carefully and review it often.

2. Abbreviations. You will encounter many of the abbreviations listed below in both this pamphlet and in your dealings with your Family Services and Assistance Officer. We suggest that you become familiar with them.

ACS—Army Community Service

AER—Army Emergency Relief

CG—Commanding General

CHAMPUS—Civilian Health and Medical Program of the Uniformed Services

DA—Department of the Army

DIC—Dependency and Indemnity Compensation

DOD—Department of Defense

FSAO—Family Services and Assistance Officer

ICRC—International Committee of the Red Cross

JAG—Judge Advocate General. Army staff element responsible for legal matters.

NLF—National Liberation Front (Viet Cong)

PFOD—Presumptive Finding of Death

PNOK—Primary Next of Kin

PRG—Provisional Revolutionary Government (Viet Cong)

PW/POW—Prisoner of War

SGLI—Servicemen's Group Life Insurance

SNOK—Secondary Next of Kin. Normally, a married service member's parents.

USSDP—Uniformed Service Savings Deposit Program

3. Definition of Next of Kin. This is a term which can be confusing unless fully understood. The distinction between the types of next of kin is necessary to determine certain entitlements.

a. Primary next of kin. This is the person most closely related to the member, usually a dependent. The following order of precedence is used in determining who is the primary next of kin: spouse, children, parents, brothers, sisters, grandparents.

b. Secondary next of kin. Normally a married service member's parents.

4. Your Family Services and Assistance Officer (FSAO). *a.* A Family Services and Assistance Officer has been appointed to assist you. He is the personal representative of the Secretary of the Army, and although his assignment as an SAO is in addition to his regular duties, he stands ready to be of service to you.

b. Your FSAO will be your primary source of information concerning the status of the missing or captured service member. He will explain Army procedures and policies and medical and legal benefits; and while he is not an expert in all areas, the resources of the service are available to him in obtaining answers to your questions. He will maintain continuous contact with you, and you can expect to hear from him at least once a month after your loved one's status has been determined. It is to be expected that during the first two or three months he will maintain frequent contact with you and report additional information as it becomes available.

c. During the FSAO's visit, you will be asked for photographs of the service member to be placed in a dossier maintained at the Department of the Army. The photographs are used by our intelligence agencies to assist in identifying persons who may be captured. Whenever enemy soldiers are captured by our forces, they are questioned for any information they may have about American PW's. When they indicate that they have seen Americans in PW camps or elsewhere in enemy hands, they are requested to look at photographs for possible identification. Also, when Americans or friendly Vietnamese troops escape from enemy forces or are released, they are also interrogated and shown photographs for identification purposes.

5. Return of personal belongings. The personal belongings of missing and captured members will be returned to the primary next of kin as quickly as possible. Delivery can be expected within

70 to 90 days. In the event they are damaged in shipment, you are entitled to reimbursement. Contact your FSAO and he will assist you in preparing the necessary claim forms to be filed.

Section II. DETERMINATION OF STATUS

6. Letter from unit commander. Our past experience with families of missing and captured members suggests that the first 60 days are understandably the most anxious and frustrating. There is little you can do during this period except wait. Your FSAO will be in repeated contact with you and will report any additional information as it becomes available. Usually, however, the earliest substantive information is sent to you by the commanding officer of the member's unit who will give all available circumstances surrounding the incident. This letter can be expected within 30 days. While the letter will answer many of your immediate questions, it will not resolve the important matter of your loved one's status.

7. Board of Inquiry. *a.* In all cases, a Board of Officers is appointed within 10 days to investigate the facts and make recommendations to Department of the Army with respect to the status of the member. Because of the impact of the board's finding, this is an exacting and deliberate process. Your FSAO will explain in detail the functions of the Board of Inquiry.

b. The Board is composed of experienced officers who are personally familiar with the type terrain, mission, and weather conditions which existed at the time the member became missing. The Board obtains formal statements from witnesses, investigates all circumstances, and coordinates with the units making the search efforts. The officers will examine all reports and arrive at recommendations which are substantiated by the facts. These recommendations are forwarded to the major command where they are again scrutinized and evaluated. Within 60 days the board proceedings are sent to the Casualty Division of The Adjutant General's Office, in Washington, DC where they are finally reviewed by another Board of Officers.

8. Categories. After this extensive process of investigation and review, a determination is made concerning the member's status. There are essentially three categories a person may be placed in under the Missing Persons Act: missing/missing in action, captured, or deceased. A finding of death is made only when reasonable evidence has been accumulated to substantiate the

determination (see paragraphs 29 and 30 for a discussion of presumptive findings of death). The same rule holds true for determining that a member has been captured: reliable witness statements or intelligence reports must establish that the member was in fact captured. In the absence of conclusive evidence, the individual is listed in one of the two missing categories. The term "missing" is used for those who become missing as a result of an incident not directly involving enemy action. The term "missing in action" (MIA) is used for those who become missing as a result of hostile action. An MIA Category is an administrative determination and has no advantage over a missing category. Each category receives the same extensive process of investigation and review. All entitlements and other benefits are the same.

9. Letter of Circumstances. *a.* Your FSAO will notify you immediately after the determination has been made of your loved one's status.

(1) If the evidence is insufficient to make a change in status and the member is continued as missing, a detailed letter is sent from The Adjutant General to you in care of your FSAO. He will personally bring this letter to you and discuss the situation in detail. The letter will relate the Board of Officers' findings and will review the entire circumstances of the member's disappearance. The letter will also explain that a missing status may be reviewed whenever additional information is uncovered; or, in the event none is uncovered, it will be mandatorily reviewed after 1 year.

(2) If there is sufficient evidence available upon which to base a logical conclusion that the member has been captured, his status will be changed and again the facts pertinent to this decision will be given to you.

(3) In other cases, the evidence may overwhelmingly support a conclusion that the member is no longer alive; in those cases, a presumptive finding of death (PFOD) will be issued, and all his accounts settled.

b. Within this same 60 day time period, you may receive letters from the serviceman's friends or from other acquaintances in his unit. Experience has shown that, unintentionally, these sometimes contain conflicting nonfactual information. The information is undoubtedly meant to be helpful; but, when checked out, it is found to be based on incomplete knowledge of the facts or on personal assumptions not supported by facts. Keep in mind

that the Army passes on to the next of kin all unclassified factual information.

c. You should be alert to contacts by persons indicating that they can influence or obtain the release of captured American servicemen. Some of these people may have good intentions, but others may have questionable motives. In the event that you are so contacted, it is recommended that you consult your FSAO.

10. Promotions. Army members while in a missing or captured status may be considered for promotion along with their contemporaries in accordance with applicable personnel policies. You will be notified of any promotions, and appropriate adjustments will be made in the pay accounts. (See section III, Finances.)

11. Official Report of Casualty (DD Form 1300). If a determination is made that the member should be continued in a missing status, an official Report of Casualty, DD Form 1300, is prepared in Department of the Army and sent to the next of kin. The report is an extremely important document as it provides legal proof as to the member's status. You will have occasion to use it often in your dealings with military agencies, the Veteran's Administration, Social Security offices, and life insurance companies. It is recommended that a copy of the DD Form 1300 be inclosed with all correspondence to Headquarters, Department of the Army, or to any military installation (additional copies are provided for this purpose) on matters pertaining to assistance in space available travel, movement of household goods, and other entitlements. This will permit the Army staff to respond to individual requests for assistance in a more efficient manner.

12. The Adjutant General's Monthly Newsletter. Each month The Adjutant General writes a newsletter to the families of missing and captured Army service members. These letters contain information regarding missing and captured activities, both specific and general, which is of particular interest to the recipients. Matters concerning special benefits legislated by Congress, information regarding the status and welfare of a released serviceman, mailing guidelines, medical care for dependents, post privileges, and any other items of this nature which are of concern to the families of missing and captured personnel are also included. It is intended that these monthly letters offer support to the next of kin and maintain a continuing communica-

tion between anxious relatives and Department of the Army during a difficult period.

Section III. FINANCES

13. Missing Persons Act. The Missing Persons Act provides for Department of the Army to administer the pay and allowances of Army members who are in a missing or captured status and thus unable to act for themselves. The primary factors considered by Department of the Army in discharging this responsibility are the expressed and implied intentions of the service member and the provision to his dependents of the means to meet normal family expenses. Inquiries concerning the pay allowances account of a member in a missing or captured status should be directed to the Commanding General, Finance Center, US Army, ATTN: Special Actions Branch, Indianapolis, Indiana 46269.

14. Pay and Allowances. a. All pay and allowances will continue to accumulate to the service member's account and be distributed in the normal manner while he is in a missing or captured status. Initial notification in regard to pay status is usually made by the Finance Center in approximately 30 days. If there should be a financial problem before this notification is received, however, ask your FSAO to contact the Special Actions Branch, Claims Division, at the Finance Center for assistance.

b. The Commanding General of the Finance Center has the authority, however, to initiate, continue, modify or discontinue allotments for dependents and families of missing and captured members when circumstances so warrant and to preserve the interest of the missing member, his dependents, or the Government. In such cases, dependents and/or primary next of kin are requested to present evidence that their financial situation dictates such action. The FSAO will assist where possible.

15. Uniformed Services Savings Deposit Program (USSDP). The USSDP is an excellent savings program which is available to all members serving on a permanent duty assignment outside the United States or its possessions. If the member had not elected to make deposits to the program, the Finance Center, upon request and in the interest of the member or his dependents, can initiate an allotment for this purpose. Interest at the rate of 10 percent per annum compounded quarterly will accrue on amounts deposited. For missing or captured members, there is

no limit on the amount that may be deposited at this interest rate. Withdrawals may be requested by dependents in an emergency situation.

16. Federal Income Tax. *a.* This paragraph covers some of the more general guidelines concerning tax matters which have been established, and hopefully will answer many of the questions about the Federal income tax status of servicemen who are listed as captured or missing in a combat zone. It does not apply to members who become missing in other areas of the world not so designated. These comments must be general in nature since it is not possible to address tax problems as they apply to each individual tax situation. The comments refer primarily to the wife since most tax problems arise from questions concerning joint or separate returns and when to file. If you have tax problems that are complicated or involved, it is suggested that you and/or your FSAO discuss the matter with the nearest Internal Revenue Service Office or Military Legal Assistance Officer.

b. As you may know, \$500 per month of commissioned officer's pay and all pay of a warrant officer and enlisted man is exempt from federal income tax for the period served in a combat zone. This includes any period in which they are in a missing/captured status in that area. Such exempted pay and nontaxable allowances will not appear on Wage and Tax Statements, IRS Form W-2, and should not be reported on any federal income tax return that may be submitted.

c. The period while a member serves in a combat zone and the next 180 days thereafter may be disregarded in determining the required filing data for any federal income, estate, or gift tax return. This includes the filing of a joint return by the spouse should she desire to file. Thus, taxes on income which a wife may individually or jointly earn while her husband is missing or captured may also be postponed. However, 180 days after the member ceases to be in a missing/captured status, a joint return for both incomes must be filed unless the wife elected to file a separate return of her income at the regular filing date. There is no interest due on such postponed taxes.

d. A wife may elect to file a separate or joint return each year. Unless a refund is due, this is generally not to the financial benefit of the parties concerned. A refund would not normally be due the service member since pay in a combat zone is not subject to regular income tax withholding.

e. The above information does not pertain to state income tax or other community tax liabilities. With respect to these taxes, we suggest you contact the tax official of the member's state of legal residence.

17. Social Security Benefits. When you receive your copies of DD Form 1300, Report of Casualty, provided by the Army, file one copy with the local Social Security Office. A copy of the form is also sent directly to Social Security Headquarters by the Department of the Army. While determination of entitlement to benefits is deferred until the member's status is determined, filing a DD Form 1300 will protect any benefit rights you may have until you file a formal application.

18. Life Insurance. *a. Servicemen's Group Life Insurance (SGLI).* A missing/captured member remains insured under the Servicemen's Group Life Insurance policy, and any beneficiary designation made by him remains in effect. Deductions from his pay for insurance purposes will continue to be made as long as he remains in this status. If, at a later date, it is determined that the member is no longer alive, the final determination of his insurance status will be made by the Veterans Administration. The Director, Insurance Service, Veterans Administration, Department of Veterans Benefits, Washington, DC 20420, is charged with this responsibility.

b. Commercial Life Insurance. If premiums are paid on commercial life insurance policies by means of the allotment system, these payments will be continued during the member's PW/missing status. If premiums to insurance companies were being paid either by personal check or by a bank allotment, you are advised to continue premium payments during the PW/missing status.

Section IV. OTHER ENTITLEMENTS

19. Entitlements of Dependents. Dependents of missing and captured members are entitled to the same support and privileges as they were before their members entered a missing status. Should there not be an Army installation nearby, Navy, Air Force, or Marine Corps facilities may be used. Following are some of the more important entitlements:

a. Chaplain Counsel and Religious Services. Families of a missing or captured member who wish to consult a military chaplain or receive religious ministrations should ask the FSAO

to establish contact with a chaplain at the nearest military installation.

b. CHAMPUS (Civilian Health and Medical Program of the Uniformed Services). Dependent wives and children are authorized care under this program. You can obtain more detailed information about CHAMPUS through your FSAO.

c. Legal assistance. Legal assistance is available to dependent next of kin through the Staff Judge Advocate's office at local Army installations. This assistance consists of such services as estate planning, income tax guidance, powers of attorney, wills, property damage/loss claims, matters involving the Soldier's and Sailor's Relief Act, and naturalization and citizenship. Your FSAO can arrange an appointment.

d. Educational Assistance Loans. Loans can be made to children of missing and captured members for education or training beyond high school under the provisions of the Federally Insured Student Loan Program (FISLP). Children must have graduated from high school in the summer of 1970 or later, and must be enrolled or accepted for enrollment in a college or school approved as an eligible institution by the US Commissioner of Education. If the student's adjusted family income is less than \$15,000, the federal government will pay the interest on the student's loan while he is in school and for one year afterward. During the repayment period, the student pays the 7 percent interest. Application forms and additional information may be obtained by writing to The Adjutant General, (ATTN: DAAG-EMG-D), Department of the Army, Washington, DC 20314, with a copy of the DD Form 1300 (Report of Casualty).

e. GI Bill benefits. If a member has been in a missing/captured status for 90 days or more, his wife is eligible for a home loan guarantee and educational benefits under the GI Bill. Dependent children are also eligible for educational benefits.

f. Army Community Services (ACS). The Army Community Services office located on Army installations offers counseling on: availability of housing; medical and dental care; relocation of household goods; legal and financial matters; and other complex personal matters. It was established to provide members and their dependents with many social services which would be available to them as civilian members of a community. Army Community Services has an excellent reputation, and most installations have vigorous, effective programs. We recommend that you ask your FSAO about the Army Community Services program in

your area since the extent of the program will vary among military installations and is dependent upon local resources and the needs of the military families residing in the area.

g. Movement of household goods. Dependent next of kin are entitled to one move to relocate household goods, personal effects, and one privately owned vehicle at government expense, provided the member has been missing 30 days or more. (Under present law, movement of a house trailer is not permitted nor is payment of trailer allowances. Department of Defense has requested Congress to change this provision of law.) Packing, unpacking, and storage is included in this authority. Temporary storage of household goods is authorized for maximum period of 90 days in connection with the shipment. Household goods already in storage may remain so indefinitely until the member's status is determined. This relocation privilege is a particularly valuable benefit in that it provides a special and often needed opportunity for the wife to move to an area in which relatives or close friends are located. Your FSAO can schedule an appointment for you with the nearest post transportation officer.

h. Dependent travel by military aircraft. Travel on a space-available basis by a military aircraft within the Continental United States for humanitarian reasons has been approved for wives, children, and dependent parents of missing and captured members. Additionally, foreign-born wives and their dependent children may travel on a space-available basis to and from overseas locations for humanitarian reasons. The travel is free but may be inconvenient for the following reasons:

(1) You may have to travel on aircraft normally used for transporting troops or cargo.

(2) There are few regularly scheduled flights, so it will not be possible for you to depend upon a particular flight.

(3) The destination of the aircraft may be changed with little or no warning.

(4) Many military bases have limited or no facilities for families to remain overnight while awaiting flights and may not be able to provide transportation to commercial facilities.

(5) There are no guarantees for a return flight.

(6) Although wives and children have the same priority as military personnel for space-available travel, military members traveling on official business receive priority over all others. Each trip must be authorized. To receive authorization, send a letter to Chief, Casualty Division, Office of The Adjutant General,

ATTN: DAAG-PSC-S, Department of the Army, Washington, DC 20314. A DD Form 1300 will not be needed, but you should include in the letter the approximate time frame in which you desire to travel, your intended destination, and the general purpose of the trip. Also, furnish names, sex, and ages of all children who will travel with you. When you have received your approval to travel, establish contact with the officer-in-charge of the passenger terminal or base operations section of the nearest military air base and make arrangements for your travel. When you arrive at the air base, show your DD Form 1173 (Dependent ID Card) and present your letter of approval with the copy of the official Report of Casualty (DD Form 1300) that DA inclosed with your letter.

i. Uniformed Services Identification and Privilege Card (ID CARD). The ID Card indicates the privileges to which the holder is entitled and normally allows medical and social services in military health care facilities, commissary privileges, Post Exchange privileges, and admission to theaters.

20. Entitlements of nondependents. Nondependent next of kin of missing and captured members are not authorized the benefits enumerated above. However, installation commanders may grant access to certain post facilities if local conditions permit. These privileges will vary among installations as well as among the different military services. Usually, nondependent next of kin may use the officers or enlisted clubs (known officially as "open mess"), guest houses, Army Community Services, and similar facilities.

Section V. MISCELLANEOUS INFORMATION

21. Addresses for Correspondence. Addresses for PW's to which NOK can send letters will be furnished, if at all possible. Current specific addresses are listed in the appendix.

22. Release of Names of Next of Kin. The Army makes every effort to protect the privacy of the next of kin. Under present policy, the names and addresses of the next of kin are not released except for official use. You will be furnished a form on which you may indicate whether you wish the Army to continue its present policy in your case, or whether you wish your name and address released to other next of kin and Members of Congress if they request it.

23. PW/MIA Organizations for Next of Kin. There are various organizations formed by next of kin of missing and captured servicemen. Although the Army is keenly interested in activities which can ameliorate the PW/MIA situation, it does not sponsor any of these organizations. Further, the Army recognizes that next of kin have a right to organize and act as they wish.

24. Television and film releases. *a.* Films of PW's are shown periodically on television. The films are obtained by the networks from private sources and are normally aired on the major news programs. The Military Services have asked the networks to give advance notice when these films will be shown so that the next of kin can be advised.

b. The Army has also asked the networks to release copies of PW films so that they can be forwarded to the appropriate Army areas for viewing by next of kin. Generally, the networks will not release copies until after the films have been broadcast; and copies then released have restrictive clauses to protect copyrights. This may limit their use; however, we will continue to pursue all possible avenues in order to obtain and show such films.

25. Foreign Radio Broadcasts. Enemy-originated radio broadcasts, which are intended to serve a propaganda purpose, are monitored by the US government. Sometimes these broadcasts contain information which can be reasonably linked to a specific missing or captured member. In these instances, a tape recording of the broadcast is made available to his family. It must be recognized, however, that these broadcasts may be too general, or garbled, to permit valid conclusions to be drawn. A few broadcasts have been made by Army PWs with personal messages for their families. Tape recordings of these messages, when received by the Department of the Army, are made available to the families concerned.

26. The Geneva Conventions. *a.* The Geneva Conventions of 12 August 1949 deal with the treatment of persons captured or detained in armed conflicts and set forth in detail the rights and protections which should be accorded to captured personnel.

b. The United States, Republic of Vietnam, and other allied powers in Southeast Asia have ratified these treaties. Although the actual administrative control of enemy prisoner of war facilities in South Vietnam is the responsibility of the government of South Vietnam, the United States has worked to insure that the

principles, spirit, and intent of the Geneva Conventions are followed. At each of the South Vietnamese PW camps, US military police advisors assist the Vietnamese commanders and oversee the moral and legal responsibilities of the United States for those whom our forces have captured. Inspections are also conducted by delegates of the International Committee of the Red Cross (ICRC).

c. The enemy in Southeast Asia has refused to implement the Geneva Conventions in either spirit, word, or deed, even though North Vietnam acceded to these treaties in 1957.

d. Although the enemy has claimed that war prisoners are being humanely treated, there has been no impartial inspection to support this claim and available evidence to date shows that such is not the case.

e. U.S. Government officials continue to identify and stress those areas in which the North Vietnamese and other hostile factions in Southeast Asia have not followed the principles of the Geneva Conventions. The primary areas are—

(1) The refusal to repatriate sick and wounded prisoners of war.

(2) The failure to provide an official list of all prisoners of war or an accounting of our missing personnel.

(3) The refusal to permit impartial inspection of prisoner of war camps by an international humanitarian organization or agency.

(4) The unwillingness to allow a free exchange of mail as provided for in the Geneva Conventions.

(5) The noncompliance, in general, with the remaining provisions of the Geneva Conventions concerning humane and proper treatment of prisoners of war.

27. Government Agencies involved in PW/Missing Persons matters. The agencies and committees of government listed below are directly concerned with PW/Missing Persons matters and are continually and actively working to protect the interests of both the individuals who are captured or missing and their families. The problems facing these organizations are not easily solved. Much of what they do must remain classified; however, you will be provided with as much pertinent information as is possible when it becomes available.

a. *Department of State.* The Department maintains close liaison on the matter of Prisoner of War/Missing Persons with the White House, the Defense Department, the military services,

and the ICRC. Additionally, the Department has operational control over the Paris Peace negotiations.

b. *Department of Defense.* The Department of Defense PW Policy Committee devotes itself to all matters pertaining to missing or captured personnel. The Committee seeks to insure that all conceivable channels are being explored to protect the welfare of US prisoners of war, including all their rights under the Geneva Conventions, and to obtain their ultimate repatriation. All major policy decisions relative to PW/Missing Persons matters are made at DOD.

c. *Department of the Army.* Under the Secretary of the Army, the Chief of Staff of the Army is responsible for matters within the Army concerning PW/Missing Persons. He is directly assisted by The Adjutant General, with other Army elements assuming responsibilities in their areas of interest.

Section VI. FUTURE ACTIONS

28. General Plans. a. The Army cannot forecast where or when American prisoners of war will be released; however, you can be assured that you will be notified of any information concerning release as soon as it becomes available. Upon release of a large number of US PW, repatriates will probably be processed at a central location in the general vicinity of their release. Processing will proceed with full consideration of the hardships experienced during captivity. The welfare and morale of the returned member shall be of prime consideration.

b. Returned members will be placed under medical care immediately. Unless medical considerations dictate otherwise, it can be expected that initial processing at the central location will require between 36 and 72 hours. However, medical determination might require a considerably longer period of time.

29. Annual Review. a. As discussed previously in Section II, the file on each missing member is carefully reviewed by a Board of Officers in DA after the member has been carried in a missing status for 12 months. This review is required by law and consists of an exhaustive evaluation of all available information. The person is continued in a missing status if there is no basis in fact to change his status to that of prisoner of war or dead. On the other hand, should the evidence give reasonable grounds to the belief that he can no longer be alive, a presumptive finding of death (PFOD) is made, to be effective one year and one day after the date the member became missing. Please be assured

that such a determination is made only after a thorough and exhaustive review. The following are considered during this critical review:

- (1) The proceedings of the original Board of Inquiry.
- (2) Updated reports of continuing search efforts from Army units in the field.
- (3) Intelligence reports, to include enemy activity in the area concerned.
- (4) Captured enemy documents.
- (5) Propaganda broadcasts and leaflets.
- (6) Type of terrain and weather conditions of the area.

Any lead which this review uncovers is followed through to insure that all factors are properly considered.

b. Next of kin are advised of the results of the annual review as soon as possible after the Board has made its evaluation. The FSAO will personally deliver a letter relating the findings and reviewing in detail the consideration of the Board.

30. **Continuing Review.** At any time prior to or after the annual review, should any evidence come to the attention of Casualty Division, DA, that could result in a change of status, the file will be carefully reviewed and an appropriate decision made based upon the facts.

31. **Cessation of Hostilities.** At the end of hostilities, the status of all missing and captured personnel will be carefully monitored. All returnees will be questioned to develop information as to what they may know as to the status of others. This information, combined with that furnished by the enemy, will resolve some cases. Eventually though, when these and all other sources have been exhausted, the remaining individual cases will be evaluated and a Presumptive Finding of Death will be made where appropriate.

32. **Entitlements in event of Presumptive Finding of Death (PFOD).** If a presumptive finding of death is made, you should rely heavily on your FSAO to assist you in settling affairs and in resolving the pressing matters which require your personal involvement. DA Pamphlet 608-4, entitled "For Your Guidance," has been prepared to help you under these circumstances. This booklet will be given to you by your assistance officer at that time. It contains a full explanation of all benefits to which you are entitled. Following are short discussions of some of the most important matters with which you will be concerned.

a. **Death Certificate.** Next of kin are furnished copies of the Official Report of Casualty (DD Form 1300) published by Headquarters, Department of the Army. These reports are used in place of a civil death certificate when proof of death is necessary. The form will be accepted by commercial life insurance companies, and may be used to cash bonds or to settle other civil or financial matters. Additional copies can be obtained through the assistance officer.

b. **Pay and Allowances.** A member's pay and allowances cease to accrue when a PFOD is made. Final settlement of the member's pay account, including any amount deposited in the savings program (USSDP) and interest on such savings, will be made by the Finance Center, US Army, Indianapolis, Indiana 46269. The Finance Center will forward the necessary claim forms to beneficiaries whom the member designated to receive his unpaid pay and allowances.

c. **Six Months' Death Gratuity.** In most cases Death Gratuity is paid within 72 hours to the surviving widow. The amount equals one month's base pay plus incentive and special pays, multiplied by six. The assistance officer will deliver payment. A minimum amount of \$800 is payable when 6 months' pay would be less than \$800. Similarly, when 6 months' pay would exceed \$3,000, the amount payable is \$3,000. The pay of the service member is based upon the rank he held on the date that the PFOD was made. If the deceased member was not married, the Death Gratuity will be paid to any surviving children; if none, then it is paid as designated by the member on his DA Form 41, Record of Emergency Data. In these two latter cases, payments will be made by the Finance Center as soon as possible, normally within 60 days.

d. **Household Goods.** When a presumptive finding of death is made, household goods may be shipped to the member's official residence, or to the residence of his dependent, next of kin, or other person entitled to receive custody of the household goods. This shipment is authorized even though a previous move was made while the member was in a missing status. Entitlement to the shipment will end if the household goods are not turned over to a military transportation office for shipment within one year from the official date of death of the member. The Secretary of the Army or his designated representative may authorize or approve transportation at a later date, if an exception is requested and appropriately justified.

e. *Servicemen's Group Life Insurance (SGLI)*. SGLI Claims are paid by the Office of Servicemen's Group Life Insurance, (OSGLI), 212 Washington Street, Newark, New Jersey 07102. Upon receipt of due proof from the Army that the insured member is no longer alive, OSGLI will pay to the proper beneficiary the amount for which the member was insured. Payment will be made to the member's designated beneficiary surviving at the time of his death; or, if no beneficiary was designated, the proceeds will be paid in the following order of precedence as provided by law:

- (1) To the widow or widower; if none,
- (2) To the child or children in equal shares; if none,
- (3) To the parents in equal shares or all to the surviving parent; if none,
- (4) To a duly appointed executor or administrator of the insured's estate; if none,
- (5) To other next of kin.

The processing time for payment of the insurance proceeds is approximately 30 days. However, in those cases where the amount of insurance payable must be determined by, or coordinated with, the Veterans Administration, processing time may be considerably longer. Questions concerning the insurance are properly referable to OSGLI.

f. *Social Security*. Social Security monthly benefits are payable to a surviving unremarried widow regardless of age with children of the deceased under age 18 in her care (as well as certain disabled children 18 or over if the disability occurred prior to age 18), children between 18 and 21 if full-time students, and a disabled widow at least 50 years old. Dependent parents are also eligible for benefits at the age of 62 if they were more than 50 percent dependent upon the deceased for their support. Amounts payable in each case can be determined only by the Social Security Administration based upon their record of credits earned during the periods of both military and civilian employment covered under the Social Security program. Your assistance officer will aid you in contacting the nearest Social Security Office.

g. *Veterans Administration (VA) benefits*.

(1) *Dependency and Indemnity Compensation (DIC)*. Of all Government benefits, the DIC will probably be the most important and the primary means of the next of kin's long-range financial security. This compensation is payable by the

Veterans Administration to unremarried widows, unmarried children under 18 (as well as to helpless children who became permanently incapable of self-support prior to age 18, and those children between 18 and 23 attending a VA approved school). DIC payments are also authorized for certain parents. The rate of payment is determined by the pay grade of the deceased husband, with every widow of a veteran in the same pay grade receiving the same rate. The monthly rate payable to a widow with one or more children of the deceased veteran is increased for each child. The rate payable to parents depends upon how much income they receive from other sources. The assistance officer and the nearest VA office will help in the completion of applications.

(2) *Home loan guaranteed by the VA*. If certain service requirements are met, the unremarried widow of a member who died in service or after separation as a result of a service-connected disability may be eligible for GI home loan benefits. If you plan to obtain a Government-Insured loan, apply to the nearest VA office to determine your eligibility.

(3) *Education*. Dependents' Education Assistance (formerly known as War Orphans Educational Assistance) sponsored by the VA, provides opportunities for education to children between 18 and 26 years of age and the widows of deceased veterans. Under certain conditions, children under age 18 may also be eligible. If the eligible person is of legal age, he may file his own application. If not, the parent or guardian of the child must file an application with a VA office. An eligible person may receive up to 36 months of schooling or the equivalent of 36 months if enrolled part time. Training may be taken in schools and colleges only. In addition to the Dependents' Educational Assistance program, various student-aid programs are available to assist dependent children to reach their educational goals.

h. *Emergency financial assistance*.

(1) *Army Emergency Relief (AER)* is an Army sponsored organization dedicated to taking care of members of the Army and their dependents in times of financial stress. AER assistance is immediately available through the AER sections at Army installations throughout the world. Assistance is offered under many types of emergencies and may be extended either as a loan without interest or as a grant. Your assistance officer can obtain the details for you in the event such assistance is needed.

(2) The Army Relief Society, which is affiliated with AER, is organized to give aid to the widows and orphans of

deceased Regular Army personnel. They offer money grants, interest free loans, and scholarships. For more information concerning this Society's benefits, write to Army Relief Society, 30 West 44th Street, New York, New York 10036. Be sure to include the service member's name, grade, Social Security number (and service number if one was issued), length of service, and date of death.

i. *Continued Service Privileges.* Many services benefits and privileges being received as an eligible dependent will be continued. You will be entitled to medical care at medical facilities of the uniformed services (Army, Navy, Air Force, and Public Health Service), patronize the commissary store, post exchange, and motion picture theaters, wherever the facilities are available and adequate, as long as you remain an eligible dependent.

Section VII. A REMINDER

33. **The Army Takes Care of Its Own.** We in the Army are aware of the anxiety and mental suffering experienced by families when the fate of a loved one is unknown and will do everything within our power to make the burden easier to bear. Remember, the FSAO is your direct link to your loved one's Service. He is the personal representative of the Secretary of the Army and has access to a vast amount of expert advice for the resolution of any difficulty you may have.

APPENDIX

ADDRESSES FOR CORRESPONDENCE

Thousands of letters have been sent by families of men missing/captured in Vietnam through various channels to Army members thought to be held captive (in the south) but there has been no confirmation that they have been received. Despite this, the Provisional Revolutionary Government (PRG) has indicated they will accept mail for American prisoners. If you wish to send a letter, it should be typewritten or neatly printed. You should not send letters more frequently than once a month, since we do not want to discourage delivery of mail because of the volume of letters received. Envelopes should be unsealed and addressed to the member as follows: grade, name, and Social Security Number. The envelope then should be placed in another envelope addressed to one of the ambassadors representing the PRG at any of the addresses in this paragraph. In this outer envelope, we suggest you enclose a short letter to the point of contact telling of your concern for your loved one and your desire for information about his welfare; and requesting that the ambassador forward your letter to the member. There is no assurance that the mail will be delivered.

a. *Possible points of contact in Paris.*

Madame NGUYEN THI BINH
49 Avenue Cambaceres
Verrieres—Le Buisson
91 Essonne, France

NHUYEN HU THO
c/o Bureau of Information of National Liberation Front,
South Vietnam
39, Avenue
Georges Mandel
Paris 16th France

b. *Embassy addresses of Provisional Revolutionary Government.*

U.S.S.R. Ulitza Pushechnaya 5
Moscow, U.S.S.R.

North Vietnam 19 Hai Ba Trung
Hanoi, Democratic Republic of Vietnam

Algeria 33 Rue Luciana, E1 Bair
Algiers, Algeria

Czechoslovakia U Vorliku 13
Bubenec
Prague 6, Czechoslovakia

Bulgaria 1 Mladezhka Street
Sofia, Bulgaria

U.A.R. 24 Rue Bahlawi
Cairo, United Arab Republic

Hungary Del-Vietnami Koztarsag Nagykovetsege
XIV, Nepstadion UT 111
Budapest, Hungary

Sweden Republic of South Vietnam's Provisional
Revolutionary Government Information
Office
Byraggaratan 4
Stockholm 111 21, Sweden

By Order of the Secretary of the Army:

W. C. WESTMORELAND,
General, United States Army,
Chief of Staff.

Official:

VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

Distribution:

To be distributed in accordance with DA Form 12-9 requirements for Personal Affairs.

Active Army: A (Qty Rqr Block No. 458).

AFNG: None.

USAR: None.